

## BERKSHIRE LOCAL TRANSPORT BODY (BLTB)

**REPORT TO:** BLTB

**DATE:** 14 March 2019

**CONTACT OFFICER:** Joe Carter, Director of Regeneration, Lead Officer to the BLTB

**DRAFT**

**PART I**

### **Item 9: TfSE – Proposal to Seek Statutory Status – Informal Engagement**

#### ***Purpose of Report***

1. On Monday 10 December 2018 the Transport for the South East Shadow Board (TfSE) approved a draft Proposal to Government for informal engagement (See Appendix 1). Staff from TfSE have separately approached each of the Berkshire Unitary Authorities and Thames Valley Local Enterprise Partnership to gather responses to the draft proposal.
2. The informal engagement period will close on 1 March 2019, and a final Proposal will be recommended to the Shadow Partnership Board meeting on 18 March 2019, which will be followed by a formal period of consultation which will run from 2 May to 31 July 2019.
3. Unfortunately, this timetable does not quite fit with your schedule of meetings, and therefore the purpose of this report is to seek your retrospective endorsement of the comments set out below, and to gather any further additions or amendments you may have which can be contributed to the TfSE meeting on 18 March.

#### ***Recommendation***

4. You are recommended to
  - i) endorse the response set out in paragraph 22
  - ii) suggest any further additional comments or amendments
  - iii) note that TfSE proposes to conduct formal consultation on its final proposal to government and that this will be the subject of a further report to your meeting on 18 July 2019

#### ***Other Implications***

##### **Financial**

5. TfSE collects an annual contribution from its constituent authorities. The current rate is £58,000 per county authority and £30,000 per unitary authority. The six Berkshire Unitary Authorities have previously chosen to act together and join TfSE via this joint committee (BLTB). Therefore, for the purposes of subscriptions, BLTB has been treated as a county authority. Slough BC, acting

as the lead authority for the joint committee has paid the subscription and collected a one-sixth share from each unitary (£9,667 each).

6. TfSE received a contribution towards the development of its Transport Strategy of £1m from the DfE.

### Risk Management

7. There are no significant risks for BLTB.

### Human Rights Act and Other Legal Implications

8. Slough Borough Council will provide legal support for the BLTB should any questions arise.

### **Supporting Information**

9. The subject of the consultation is the exact terms of a Proposal to Government requesting statutory status for TfSE, which if approved by Parliament, will become a second sub-national transport body alongside Transport for the North, which was confirmed in April 2018. The draft proposal is set out in Appendix 1.
10. The statutory basis for sub-national transport bodies is set out in [Part 5A of the Local Transport Act 2008](#)<sup>1</sup>, as amended by the Cities and Local Government Devolution Act 2016, which says that “the Secretary of State may by regulations establish a sub-national transport body for any area in England outside Greater London” (s102E(1)) and it goes on to set the conditions and limits for such arrangements.
11. The twin purposes of creating sub-national transport bodies are to facilitate the development of a transport strategy and so promote economic growth for the area.
12. The Act requires a new sub-national transport body to be promoted by its constituent authorities, to have the consent of its constituent authorities, and that the Proposal has been the subject of consultation within the area and with neighbouring authorities. TfSE are planning that the formal consultation running from 2 May – 31 July 2019 will be carried out in a way that meets this condition.
13. The Proposal must also set out the membership, voting powers, decision-making arrangements, functions and general powers.
14. The attached draft Proposal to government confirms that the 16 constituent authorities are proposed as: Bracknell Forest; Brighton and Hove; East Sussex; Hampshire; Isle of Wight; Kent; Medway; Portsmouth; Reading; Slough; Southampton; Surrey; West Berkshire; West Sussex; Windsor and

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2008/26/part/5A>

Maidenhead; and Wokingham. It also confirms that the six Berkshire Unitaries will act together via this joint committee, the Berkshire Local Transport Body.

15. The Proposal sets out arrangements for involving the five Local Enterprise Partnerships; two National Park Authorities, 44 Boroughs and Districts and the transport industry voice in governance
16. The Proposal identifies the powers TfSE wants to draw down from central government; it goes on to identify a number of powers it hopes to exercise concurrently with local authorities. The Proposal emphasises that it will only ever exercise these local powers with the consent of the local authority concerned.
17. In a separate exercise, TfSE is currently developing its Transport Strategy, and will also be subject to consultation with constituent authorities and other stakeholder partners.
18. For more information please visit [www.transportforthesoutheast.org.uk](http://www.transportforthesoutheast.org.uk)
19. Members of BLTB will recall that Transport for the South East was debated on 16 March 2017 when you resolved to "...participate in the shadow arrangements for a sub-national transport body for the south east; and that Councillor Page represent BLTB at the shadow board meetings." (minute 22 refers).
20. Members will further recall that TfSE subscriptions and membership were debated and agreed on 16 November 2017 (minute 19 refers); and that on 19 July 2018 you authorised Joe Carter (Director of Regeneration Slough BC) to sign the collaboration agreement on your behalf (minute 15 refers).

### ***Draft Response to the Informal Engagement***

21. This matter has been considered by the Berkshire Strategic Transport (Officers') Group and by individual transport authorities and by the LEP.
22. The following draft response has been submitted to TfSE and you are invited to suggest further amendments or additions before endorsing the response.
  - i) Berkshire Local Transport Body continues to support the creation of Transport for the South East, and reaffirms its position representing the six Berkshire Unitary Authorities
  - ii) It welcomes the detail set out in the draft proposal to government and supports the engagement process currently underway
  - iii) It supports the aim of coordinating Transport Strategy in order to promote economic growth
  - iv) It supports the emphasis on a strong influencing role and, by implication, relatively low-key role in delivering transport policies and programmes
  - v) It supports the intention to operate by consensus with the Partnership Board

- vi) It supports the seeking of concurrent powers with the local transport authorities, and the commitment to only use such powers with the consent of the local transport authority concerned.

### ***Conclusion***

- 23. The emergence of Transport for the South East as a potential sub-national transport body including the Berkshire area is to be welcomed.

### ***Background Papers***

- 24. Correspondence with TfSE



# TRANSPORT FOR THE SOUTH EAST

## Draft Proposal for Informal Engagement

December 2018

### 1. Executive Summary

- **Why TfSE needs Statutory Status** – the document needs to clearly set out the value the STB will add beyond a joint committee or collaboration. The impact of not having TfSE is that the current pressures on strategic transport infrastructure will continue to grow. Without TfSE there will not be a regional organisation to make the case for investment in infrastructure, leading to increased congestion, inability to consider multi-modal investments or cross boundary schemes that will benefit the end user.
  - Traction with Government and key stakeholders (Highways England & Network Rail) who will need to have 'due regard' to the Transport Strategy. TfSE will need to have statutory status if it is to take on specific legal power and responsibilities relating to the operation of the transport system in its area
  - Permanence – STB needs to be in place on permanent basis if it is to deliver on its strategy in the longer term. Achieving statutory status will enable TfSE to operate on a permanent basis and will provide a governance structure that matches the lifecycle of major infrastructure projects.
  - Facilitate the delivery of jobs, housing and growth – the Transport Strategy will identify the strategic transport priorities. Implementation of the schemes will connect economic centres and international Gateways. The region has a significant impact on GVA and this can be increased with investment in strategic infrastructure.
  - Geography of TfSE region – polycentric nature of the region means that strategic transport corridors cross local authority boundaries and can best be addressed by a body with the regional scale of TfSE.
- **Aims of the Transport Strategy:** Local Transport Authorities and Local Enterprise Partnerships across South East England, operating in partnership with TfSE, will develop a long term and ambitious Transport Strategy. The Strategy will identify the strategic transport priorities for the region and will develop an investment plan to support the delivery of the identified schemes.
- **Powers and Functions of TfSE:** The Executive Summary will set out the powers and functions which TfSE is seeking, including General Functions and more specific Transport Functions, such as influencing the development of rail franchise specifications and implementation of an integrated, smart ticketing scheme.

- **Timescale:** TfSE is aiming to secure statutory status in 2020. The draft Proposal will be subject to a public consultation from May 2019 to July 2019, prior to being submitted to Government in December 2019.
- **Stakeholder Engagement:** the draft Proposal has been developed in partnership with TfSE's members and stakeholders. The constituent authorities and Local Enterprise Partnerships have steered the development of the Proposal, with input from the various members of the Transport Forum. We will secure support from key businesses in the TfSE area prior to submission to Government and will engage with a range of partners during the public consultation exercise. Letters of support from key stakeholders and businesses will be attached to the Proposal.

## **2. Transport for the South East**

2.1 Transport for the South East (TfSE) was established in shadow form in June 2017. It brings together 16 Local Transport Authorities, five Local Enterprise Partnerships and other key stakeholders, including environmental groups, transport operators, district and borough authorities and national agencies, to develop an ambitious Transport Strategy for the South East region.

2.2 TfSE will support the growth of the South East economy, ensuring the delivery of a high quality, sustainable and integrated transport system:

- that supports increased productivity to grow the South East and UK economy and compete in the global marketplace
- that works to improve safety, quality of life and access to opportunities for all
- that protects and enhances the South East's unique natural and historic environment

2.3 TfSE is in the process of developing its Transport Strategy, which will run until 2050 and it will be accompanied by a clear investment plan for strategic infrastructure schemes in the South East. It will identify how targeted investment in strategic infrastructure could enable the GVA of the South East to grow up to £500 billion by 2050, with almost 3 million additional jobs.

2.4 During its operation in Shadow form, TfSE has already added considerable value in bringing together key partners and stakeholders to influence Government thinking. To date TfSE has contributed to the Roads Investment Strategy 2 and Major Road Network consultation.

2.5 The TfSE area and its key issues:

- Overview of the TfSE area drawing on the analysis given in the Economic Connectivity Review, Strategic Economic Plans and emerging Local Industrial Strategies. Include a map of the key towns, gateways, transport corridors and key sectors.
- Overview of the economy
- Economic Outcomes of Transport
- Context the key issues which need addressing e.g. where high levels of usage of the transport system is blocking the full growth potential and where links need to be enhanced to access a wider range of opportunities.
- Highlight housing challenge, importance of international gateways, end user benefits and air quality. Need to highlight the importance of innovation and digital and the impact that it is likely to have on transport – links to Innovation South.

2.6 The scale of the challenge and why change is needed:

- Continuing underinvestment in the south east (IPPR research on investment per head outside of London)
- Underperformance of coastal strip
- Poor connectivity – particularly orbital routes
- Region is not reaching its full potential (Economic Connectivity Review data to support this)

### **3. The Ambition – this section will set out the vision for TfSE, highlight the economic characteristics of the area and the background to TfSE**

*The South East is crucial to the UK economy and is the nation's major international gateway for people and businesses.*

*We will grow the South East's economy by facilitating the development of a high quality, integrated transport system that makes the region more productive and competitive, improves access to opportunities for all and protects the environment.*

3.1 The South East is a powerful regional economy contributing more than £200 billion to the UK economy each year. It is home to major international gateways, including Gatwick and Heathrow airports, as well as Dover, Southampton and Portsmouth ports. It has rail connections with the rest of the UK and into Europe, and a considerable road network, including key parts of the Strategic Road Network, proposed Major Road Network and a number of highly significant local roads.

3.2. Many international and national companies are based in the region, alongside a large number of thriving, innovative SMEs. *Key Sectors – include reference here.*

3.3 However, our infrastructure is operating beyond capacity and unable to sustain ongoing growth. Underinvestment in road and rail infrastructure is causing issues for our residents and businesses.

3.4 Proximity to London – and impacts, including travel to work patterns. The nature of the relationship with London means that there are good connections into London, but orbital routes have suffered from lack of investment.

3.5 Environment and protected landscapes – the South East is an area of unrivalled natural beauty. It is home to two National Parks, a number of Areas of Outstanding Natural Beauty and much of the region is allocated as Green Belt. TfSE will play a role in maintaining and protecting the landscape. Additionally, there are a number of areas with air quality issues. It will be important that TfSE is enabled to address these issues and improve air quality for our residents.



#### 4. TfSE: Strategic and Economic Case

- **Background to STBs** – the Government introduced powers to establish Sub-national Transport Bodies through the Cities and Local Government Devolution Act 2016. The legislation sets out that STBs will have General Functions, including to develop a Transport Strategy and provide advice to the Secretary of State. Once statutory status has been secured the Government must have due regard to the Transport Strategy which means that they must actively consider and respond to TfSE proposals. As well as exerting strategic influence there is also the potential for the STB to propose specific transport functions, including the operation of smart ticketing schemes, highway improvement construction and maintenance and rail franchising.
- **Why do we need TfSE**
  - Why TfSE covers the geography designated
  - How TfSE will sustain and grow the South East's contribution to the UK economy
  - How TfSE will help sustain growth in the regional economy
  - How TfSE will help facilitate strategic transport improvements
  - How TfSE will help improve social inclusion through improved access to jobs education and health facilities
- The value that could be added by establishing TfSE as a statutory STB:
  - **One voice for strategic transport in the South East** – Transport for the South East will offer an effective mechanism for Government to engage with local authorities and LEPs in the region. The collective strength of the partnership will offer a more effective way to develop clear priorities for investment and to influence critical spending decisions. This will provide traction with Government and key stakeholders (Highways England & Network Rail) who will need to have 'due regard' to the Transport Strategy.
  - **Local Democratic Accountability** – the Partnership Board will comprise elected representatives and business leaders who will have responsibility for the delivery of the Transport Strategy. TfSE offers a route to engage with other emerging STBs and Transport for London.
  - **Delivering benefits for the end user** – TfSE can support the delivery of region wide programmes that will offer considerable benefits to the end user. Integrated travel solutions, combined with smart ticketing will operate more effectively at a regional scale and can best be facilitated by a regional body, than by individual organisations.
  - **Facilitating economic growth** –The Transport Strategy will facilitate the delivery of jobs, housing and growth. Implementation of strategic, cross-boundary schemes, particularly investment in the orbital routes, will connect economic centres and international Gateways. The region has a significant impact on GVA and this can be increased with investment in strategic infrastructure.
  - **Access to International Gateways** – The Economic Connectivity Review highlighted the importance of key corridors connecting the international gateways in the South East to the rest of the UK. TfSE will work to ensure improved access to these gateways including first mile- last mile connectivity.
  - **Permanence** – securing statutory status offers TfSE the security to deliver the Transport Strategy to 2050. Achieving statutory status will enable TfSE to operate on

a permanent basis and will provide a governance structure that matches the lifecycle of major infrastructure projects.

- **Geography of TfSE region** – polycentric nature of the region means that strategic transport corridors cross local authority boundaries and can best be addressed by a body with the regional scale of TfSE. Improved orbital connections required to enhance regional cohesion and improve access to international gateways. This will support the national economy, given the importance of these gateways..

- **The strategic and economic case for each of the powers and responsibilities being sought**

**The powers will be sought in a way which means they will operate concurrently and with the consent of the constituent authorities.**

- **Strategic influence:** the benefits of being able to set a single vision for the longer term. Acting as a statutory consultee and influencing the development of national programmes, such as the Road Investment Strategy and Major Road Network. TfSE has already worked with Government on a number of proposals that will help to support economic growth in the region, including RIS2, influencing rail franchising discussions and providing collective views on schemes such as southern and western rail access to Heathrow.

- **Collective voice on strategic transport planning:** the benefits of a single voice and promoting cross regional transport priorities

- **Complement existing powers and responsibilities of LTAs**

- **Environmental enhancement and protection as a key part of scheme delivery.**

- **Delivering improvements in air quality and reductions in carbon dioxide emissions**

- **Lobbying for investment in transport projects**

- **Liaison with key stakeholders and delivery partners**

- **Taking forward joint issues**

- **Effective working with other organisations who operate at a similar level**

- **Possible development and sponsorship of transport initiatives such as integrated ticketing** – working to improve customer journeys and implement digital transport solutions.

- **Possible operation/delivery of transport initiatives at a regional scale where there is a clear business case for doing so.**

## 5. Constitutional Arrangements

Transport for the South East's ("TfSE") proposal to form a Sub-National Transport Body ("STB") builds on our track record to date and our objective to act as a strong voice for the whole of the South East. Our draft proposal sets out how TfSE would strengthen existing arrangements, ensuring we align with primary legislation. This proposal sets out a summary of our proposal which should be proportionate and effective to build on our current strength of business and civic leadership.

### ***Requirements from Legislation***

#### **Name**

5.1 The name of the STB would be 'Transport for the South East ("TfSE")' and the area would be the effective boundaries of our 'constituent members'. A map would be provided as part of any formal proposal.

#### **Members**

- 5.2 The membership of the STB is listed below:
- Bracknell Forest Borough Council
  - Brighton and Hove City Council
  - East Sussex County Council
  - Hampshire County Council
  - Isle of Wight Council
  - Kent County Council
  - Medway Council
  - Portsmouth City Council
  - Reading Borough Council
  - Slough Borough Council
  - Southampton City Council
  - Surrey County Council
  - West Berkshire Council
  - West Sussex County Council
  - The Royal Borough of Windsor and Maidenhead Council
  - Wokingham Borough Council

#### **Partnership Board**

5.3 The current Partnership Board is the only place where all 'constituent members' are represented at an elected member level<sup>2</sup>. Therefore this Board will need to have a more formal role, including in ratifying key decisions. This would effectively become the new 'Partnership Board' and meet at least twice per annum. The Partnership Board could agree through Standing Orders if it prefers to meet more regularly.

5.4 Each constituent authority will appoint one of their councillors / members or their elected mayor as a member of TfSE on the Partnership Board. Each constituent authority will also appoint another one of their councillors / members or their elected

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<sup>2</sup> The six constituent members of the Berkshire Local Transport Body (BLTB) will have one representative between them on the Partnership Board.

Mayor as a substitute member (this includes directly elected Mayors as under the Local Government Act 2000). The person appointed would be that authority's elected mayor or leader, provided that, if responsibility for transport has been formally delegated to another member of the authority, that member may be appointed as the member of the Partnership Board, if so desired.

5.5 The Partnership Board may delegate the discharge of agreed functions to its officers or a committee of its members in accordance with a scheme of delegation or on an ad hoc basis. Further detail of officer groups and a list of delegations will be developed through a full Constitution.

### **Co-opted Members**

5.6 TfSE propose that governance arrangements for a statutory STB should maintain the strong input from our business leadership, including LEPs and other business representatives. The regulations should provide for the appointment of persons who are not elected members of the constituent authorities to be co-opted members of the TfSE Partnership Board.

5.7 A number of potential co-opted members are also set out in the draft legal proposal. Co-opted members would not automatically have voting rights but the Partnership Board can resolve to grant voting rights to them on such issues as the Board considers appropriate.

### **Chair**

5.8 The Partnership Board will agree to a chair and vice-chair of the Partnership Board.

The Partnership Board may also appoint a single or multiple Vice-Chairs from the constituent members. Where the Chair or Vice-Chair is the representative member from a Constituent Authority they will have a vote.

### **Proceedings**

5.9 It is expected that the Partnership Board will continue to work by consensus but to have an agreed approach to voting where necessary.

5.10 Whilst there is a clear expectation that the Partnership Board would work by consensus, where consensus cannot be reached and for certain specific decisions an agreed mechanism is needed to ensure that decisions can be made.

5.11 A number of voting options were considered to find a preferred option that represents a straightforward mechanism, the characteristics of the partnership and which does not provide any single authority with an effective veto. We also considered how the voting metrics provide a balance between county and other authorities, urban and rural areas and is resilient to any future changes in local government structures.

5.12 The Steering group considered these options and preferred the population weighted option based on the population of the Constituent Authority with the smallest population, the Isle of Wight with 140k.

5.13 This option requires that the starting point for decisions will be consensus, and if that can't be achieved then decisions will require a simple majority of those Constituent Bodies who are present and voting. The decisions below will however require both a super-majority, consisting of three quarters of the weighted vote in favour of the decision, and a simple majority of the constituent authorities appointed present and attending at the meeting:

- (i) The approval and revision of Transport for the South East's ("TfSE") Transport Strategy;
- (ii) The approval of TfSE annual budget;
- (iii) Changes to the TfSE constitution.

The population weighted vote would provide a total of 54 weighted votes, with no single veto. A table showing the distribution of votes across the constituent authorities is set out in Appendix 1. This option reflects the particular circumstances of TfSE, being based on the population of the smallest individually represented constituent member who will have one vote, and only a marginally smaller proportionate vote. It is considered that this option is equitable to all constituent authority members, ensures that the aim of decision making consensus remains, and that smaller authorities have a meaningful voice, whilst recognising the size of the larger authorities in relation to certain critical issues.

5.14 The population basis for the weighted vote will be based on ONS statistics from 2016 and reviewed every 10 years.

5.15 The Partnership Board is expected to meet twice per year, where full attendance cannot be achieved, the Partnership Board will be quorate where 50% of Constituent Members are present.

#### **Scrutiny Committee (To be confirmed – pending outcome of discussions with DfT)**

5.16 TfSE will establish a scrutiny committee and each 'constituent authority' will be entitled to appoint a member to the committee and a 'substitute' nominee. Such appointees cannot be otherwise members of TfSE, including at the Partnership Board.

5.17 The scrutiny committee appointed by TfSE may not include a member, substitute member or co-opted member of TfSE, but may include co-opted persons representative of non-constituent authorities and non-councillor representatives of passengers, road users, employers and employees.

#### **Standing Orders**

5.18 TfSE will need to be able to make, vary and revoke standing orders for the regulation of proceedings and business, including that of the scrutiny committee. This will ensure that the governance structures can remain appropriate to the effective running of the organisation.

5.19 In regards to changing boundaries and therefore adding or removing members, TfSE would have to make a new proposal to Government under Section 102Q of the Local Transport Act 2008 and require formal consents from each Constituent Authority.

## **Miscellaneous**

5.20 It may be necessary that certain additional Local Authority enactments are applied to TfSE as if TfSE were a Local Authority, including matters relating to staffing arrangements, pensions, ethical standards, and provision of services etc. These are set out in the draft legal proposal.

5.21 TfSE also proposes to seek the functional power of competence as set out in section 102M of the Local Transport Act 2008.

5.22 TfSE will consider options for appointing to the roles of a Head of Paid Service, a Monitoring Officer and a Chief Finance Officer whilst considering possible interim arrangements.

## **Funding**

5.23 TfSE will work with partners and Department for Transport (“DfT”) to consider a sustainable approach to establishing the formal STB as effectively as possible.

## **Governance**

### **Transport Forum and Senior Officer Group**

5.24 The Partnership Board will appoint a Transport Forum. This will be an advisory body to the Senior Officer Group and Partnership Board, comprising a wider group of representatives from user groups, operators, District and Borough Councils as well as Government and National Agency representatives.

5.25 The Transport Forum will meet four times a year and be chaired by an independent person appointed by the Partnership Board. The Transport Forum may also appoint a Vice-Chair for the Transport Forum, who will chair the Transport Forum when the Chair is not present.

5.26 The Transport Forum’s terms of reference will be agreed by the Transport for the South East Partnership Board. It is envisaged that the Transport Forum will provide technical expertise, intelligence and information to Senior Officer Group and the Partnership Board.

5.27 The Partnership Board and Transport Forum will be complemented by a Senior Officer Group representing members at official level providing expertise and co-ordination to the TfSE programme. The Steering Group will meet monthly.

## **6. Functions**

Transport for the South East's proposal is to become a statutory Sub National Transport Body as set out in section part 5A of the Local Transport Act 2008. The precise legal proposal is set out in a separate document but includes the following functions.

### **General Functions**

6.1 Transport for the South East proposes to have the 'General Functions' as set out in Section 102H (1) including:

- a. to prepare a Transport Strategy for the area;
- b. to provide advice to the Secretary of State about the exercise of transport functions in relation to the area (whether exercisable by the Secretary of State or others);
- c. to co-ordinate the carrying out of transport functions in relation to the area that are exercisable by different constituent authorities, with a view to improving the effectiveness and efficiency in the carrying out of those functions;
- d. if the STB considers that a transport function in relation to the area would more effectively and efficiently be carried out by the STB, to make proposals to the Secretary of State for the transfer of that function to the STB;
- e. to make other proposals to the Secretary of State about the role and functions of the STB. (2016, 102H (1))<sup>5</sup>

6.2 The General Functions are regarded as the core functions of a Sub-National Transport Body and will build on the initial work of Transport for the South East in its shadow form. To make further proposals to the Secretary of State regarding constitution or functions, Transport for the South East will need formal consents from each 'Constituent Member'.

6.3 Transport for the South East recognises that under current proposals the Secretary of State will remain the final decision-maker on national transport strategies, but critically that the Secretary of State must have regard to a Sub-National Transport Body's statutory Transport Strategy. This sets an important expectation of the strong relationship Transport for the South East aims to demonstrate with Government on major programmes like the Major Road Network and Rail Upgrade Plan.

### **Local Transport Functions**

6.4 Initial work has identified a number of additional powers that Transport for the South East may require that will support the delivery of the Transport Strategy. The table below provides an assessment of these functions and will be used to support the informal engagement with constituent authorities and members of the Shadow Partnership Board.

6.5 The powers which are additional to the general functions relating to STBs will be requested in a way that means they will operate concurrently and with the consent of the constituent authorities.

**Table 1: Powers and Responsibilities for further discussion**

Function/Power	Description of existing function/power	What is TfSE seeking	Why power is being sought	Added benefit of TfSE having this power
<b>General functions</b>				
Section 102 H of the Local Transport Act 2008	Prepare a transport strategy, advise the Secretary of State, co-ordinate the carrying out of transport functions, make proposals for the transfer of functions, make other proposals about the role and functions of the STB.	All the general powers set out in Section 102H.	Functions required for TfSE to operate as a STB and meet the requirements of the enabling legislation to facilitate the development and implementation of transport strategies for the area and thereby further the economic growth objective.	
<b>Rail</b>				



Function/Power	Description of existing function/power	What is TfSE seeking	Why power is being sought	Added benefit of TfSE having this power
<p>Right to be consulted about new rail franchises (Section 13 of the Railways Act 2005 – Railway Functions of Passenger Transport Executives)</p>	<p>The right of a Passenger Transport Executive to be consulted before the Secretary of State issues an invitation to tender for a franchise agreement</p>	<p>The right to be consulted about rail franchises in its area.</p>	<p>TfSE requires a strong, formal role in decision making over and above that which is available to individual constituent authorities. The right of consultation is important because it confirms TfSE's role as a strategic partner. This power would enable TfSE to exert strategic influence over future rail franchises to ensure the potential need for changes to the scope of current services and potential new markets identified by TfSE are considered.</p>	<p>TfSE acts as the collective voice of constituent authorities and delivers a regional perspective and consensus on the priorities for rail in its area.</p>

Function/Power	Description of existing function/power	What is TfSE seeking	Why power is being sought	Added benefit of TfSE having this power
<p>Set High Level Output Specification (HLOS) for Rail (Schedule 4A, paragraph 1D, of the Railways Act 1993)</p>	<p>Power of Secretary of State to set the HLOS setting out objectives for next railway control period.</p>	<p>Power to act jointly with the Secretary of State to set the HLOS for the rail network in TfSE area.</p>	<p>Exert strategic influence over the future development of the rail network in the TfSE area. The power to influence the objectives within the HLOS would enable TfSE's aspirations for transformational investment in rail infrastructure that will facilitate economic growth</p>	<p>TfSE acts as the collective voice of constituent authorities and delivers a regional perspective and consensus on the priorities for rail in its area.</p>

Function/Power	Description of existing function/power	What is TfSE seeking	Why power is being sought	Added benefit of TfSE having this power
<b>Highways</b>				
<p>Set Road Investment Strategy (RIS) for the Strategic Road Network (RIS)</p> <p>(Section 3 and Schedule 2 of the Infrastructure Act 2015)</p>	<p>Power of Secretary of State to set and vary the RIS</p>	<p>Power to act jointly with the Secretary of State to set and vary the RIS in the TfSE area.</p>	<p>TfSE requires a strong, formal role in decision making over and above that which is available to individual constituent authorities. This power would enable TfSE to exert strategic influence, and ensure TfSE's aspirations for transformational investment in road infrastructure that will facilitate economic growth as identified in its Transport Strategy are reflected in the RIS.</p>	<p>TfSE acts as the collective voice of its constituent authorities and delivers a regional perspective and consensus on the priorities for the RIS.</p>
<p>Enter into agreements to undertake certain works on Strategic Road Network, Major Road Network or local roads. (Section 6(5) of the Highways Act 1980, (trunk roads) &amp; Section 8 of the Highways Act 1980 (local roads)</p>	<p>Power that local highway authorities currently have to enter into an agreement with other highway authorities to construct, reconstruct, alter, improve or maintain roads</p>	<p>Concurrent power to enter into such agreements with highway authorities for trunk roads and local roads</p>	<p>These powers will enable TfSE to promote and expedite the delivery of regionally significant schemes, across boundaries that otherwise might not be progressed,</p>	<p>TfSE could overcome the need for complex 'back-to-back' legal and funding agreements between neighbouring authorities improving efficiency by reducing scheme development time and reducing overall costs.</p>

Function/Power	Description of existing function/power	What is TfSE seeking	Why power is being sought	Added benefit of TfSE having this power
<p>Acquire land to enable construction, improvement, or mitigate adverse effects of highway construction. (Sections 239,240,246 and 250 of the Highways Act 1980)</p>	<p>Power to acquire land for various purposes.</p>	<p>Concurrent power</p>	<p>Allow preparations for the construction of a highways scheme to be expedited where highway authorities are not in a position to acquire land. Power only to be exercisable with the consent of the highway authority</p>	<p>Enable TfSE to expedite the delivery of regionally significant schemes, that otherwise might not be progressed. Land acquisition by TfSE could facilitate quicker scheme delivery.</p>
<p>Construct highways, footpaths, bridleways (Sections 24,25 &amp; 26 of the Highways Act 1980)</p>	<p>Powers to construct highways, footpaths and bridleways.</p>	<p>Concurrent powers that will enable TfSE to promote, coordinate and fund road schemes</p>	<p>Without these powers TfSE would not be able to enter into any contractual arrangement in relation to procuring the construction, improvement or maintenance of a highway or the construction or improvement of a trunk road.</p>	<p>Enable TfSE to enter into contractual arrangements that will expedite the delivery of regionally significant schemes set out in its Transport strategy that cross constituent authority boundaries that otherwise might not be progressed.</p>

Function/Power	Description of existing function/power	What is TfSE seeking	Why power is being sought	Added benefit of TfSE having this power
<b>Make capital grants for public transport facilities</b>				
Make capital grants for the provision of public transport facilities (Section 56(2) of the Transport Act 1968)	Power of a local authority to pay capital grants for the provision of facilities for public passenger transport.	TfSE to be granted this power concurrently with local authorities.	This will enable TfSE to fund public transport improvements.	This will enable TfSE to support the funding and delivery of joint projects with constituent local authorities.
<b>Bus Service Provision</b>				
Duty to secure the provision of Bus Services (Section 63(1) Transport Act 1985)	Local transport authorities and Integrated transport have a duty <b>to secure the provision of such public passenger transport services</b> as it considers appropriate and which would not otherwise be provided.	TfSE to have this duty concurrently with the local transport authorities in its area	Would enable TfSE to fill in identified gaps in bus service provision in its geography or secure the provision of regionally important bus services covering one or more constituent authority areas in the future which would not otherwise be provided.	Travel to work areas do not respect local authority boundaries. Potential for TfSE to secure regionally important bus services that would not otherwise be provided

Function/Power	Description of existing function/power	What is TfSE seeking	Why power is being sought	Added benefit of TfSE having this power
Quality Bus Partnerships (The Bus services Act 2017 Sections 113C – 113O & Sections 138A – 138S)	Powers to enable local transport authorities and Integrated Transport Authorities to enter into Advanced Quality Partnerships and Enhanced Partnership Plans and Schemes to improve the quality of services and facilities within an identified area.	Concurrent power for TfSE to be able to enter into Advanced Quality Partnerships and Enhanced Plans and Schemes.	To facilitate the introduction of Quality Partnership schemes to be introduced in an area covering more than one constituent authority.	To expedite the introduction of Quality Partnership schemes covering more than one local transport authority area which otherwise might not be introduced
Bus Service Franchising (The Bus Services Act 2017)	Power of Mayoral Combined Authorities to implement bus franchising in their area.	Power for TfSE to implement bus service franchising in its area	To facilitate the introduction of bus service franchising in an area covering more than one constituent authority.	To expedite the introduction of franchising arrangements covering more than one local transport authority area which otherwise might not be introduced.

Function/Power	Description of existing function/power	What is TfSE seeking	Why power is being sought	Added benefit of TfSE having this power
<b>Smart Ticketing</b>				
Introduce Integrated Ticketing Schemes (Sections 134C- 134G & Sections 135-138 Transport Act 2000)	Powers of local transport authorities to make advanced, joint and through ticketing schemes	Concurrent powers with local transport authorities in the TfSE area	These powers will enable TfSE to procure services, goods, equipment and/or infrastructure; enter into contracts to deliver smart ticketing and receive or give payments.	Expedite the introduction of a cost effective smart and integrated ticketing system on a regional scale
<b>Air Quality</b>				
Establish Clean Air Zones (Sections 163-177A of the Transport Act 2000 – Road User Charging)	Power of local traffic authority and integrated transport authorities to make local charging schemes imposing charges in respect of the use or keeping of motor vehicles on roads.	Powers to introduce road user charging schemes to enable charged clean air zones to be introduced	Air quality issues do not respect local authority boundaries which may necessitate Clean Air Zones being introduced across constituent authority boundaries.	Ability to expedite the introduction of larger scale air quality zones where air quality issues extend across existing boundaries. Reduced implementation and operating costs compared to two or more continuous zones.

Function/Power	Description of existing function/power	What is TfSE seeking	Why power is being sought	Added benefit of TfSE having this power
<b>Other Powers</b>				
Promote or oppose bills in Parliament Section 239 Local Government Act 1972	Local Authorities have the power to promote or oppose Bills in Parliament. Under the Transport and Works Act 1992, a body that has power to promote or oppose bills also has the power to apply for an order to construct or operate certain types of infrastructure (e.g. railways, tramways waterways & piers)	Power to promote or oppose Bills in Parliament. Transport and Works Act powers to apply for orders to promote, construct or operate certain types of transport facilities.	Enable TfSE to promote coordinate and fund regionally significant infrastructure schemes Transport and Work Act powers are the means by which railway, tramway, inland waterways and coastal piers are promoted and operated.	Expedite the delivery of regionally significant schemes (including railway schemes) that cross constituent authority boundaries that otherwise might not be progressed.
Incidental amendments to the Local Government Act 1972, Localism Act 2011, Local Government Pension Scheme Regulations 2013, as per the TfN S.I.	Incidental amendments to enable TfSE to operate as a type of local authority with duties in respect of staffing, pensions, monitoring and the provision of information about TfSE.	The same incidental amendments as were included in the TfN S.I.	To enable TfSE to function as a type of local authority	



**Possible Functions not being sought**

6.6 Transport for the South East has also given consideration to a wide range of powers does not propose seeking the functions set out in the table below

<b>Function not being sought</b>	<b>Rationale</b>
Act as co-signatories to rail franchises	No existing involvement from constituent authorities in rail operations and no current aspirations to become involved in this area.
Be responsible for rail franchising	
Carry passengers by rail.	
Set priorities for local authorities for roads that are not part of the Major Road Network	TfSE will only be responsibility for identifying priorities on the Major road Network.
Being responsible for any highway maintenance responsibilities.	No rationale for TfSE involvement in routine maintenance of Major Road Network or local roads.
Take on any consultation function instead of an existing local authority.	
Give directions to a constituent authority about the exercise of transport functions by the authority in their area.	This power contained in the enabling legislation will not be requested.

## **6. Summary of Support and Engagement**

- The draft Proposal will be shaped and will be endorsed by the Shadow Partnership Board in March 2019 prior to the launch of the consultation.
- During the consultation process, the draft Proposal will be made available on the TfSE website. Meetings will be held with key contacts, such as Network Rail, Highways England, Transport for London, England's Economic Heartlands and the Transport Forum.
- Following the consultation exercise TfSE will update the draft Proposal and publish a summary of the consultation comments received.
- TfSE will seek consent from its constituent authorities and the final draft Proposal will be endorsed by the Shadow Partnership Board in autumn 2019.
- The final Proposal will include a summary of the engagement process, including a list of the organisations engaged in the process and an appendix with a number of letters of support from key organisations and businesses.

## Appendix 1 – Distribution of votes

<b>TfSE Constituent Authorities</b>	<b>Population<sup>1</sup></b>	<b>Number of Votes<sup>2</sup></b>
Brighton and Hove City Council	287,173	2
East Sussex County Council	549,557	4
Hampshire County Council	1,365,103	10
Isle of Wight Council	140,264	1
The Kent County Council	1,540,438	11
Medway Council	276,957	2
Portsmouth City Council	213,335	2
Southampton City Council	250,377	2
Surrey County Council	1,180,956	2
West Sussex County Council	846,888	6
<i>Bracknell Forest Council</i>	<i>119,730</i>	
<i>Reading Borough Council</i>	<i>162,701</i>	
<i>Slough Borough Council</i>	<i>147,736</i>	
<i>West Berkshire Council</i>	<i>158,576</i>	
<i>The Royal Borough of Windsor and Maidenhead</i>	<i>149,689</i>	
<i>Wokingham Borough Council</i>	<i>163,087</i>	
Berkshire Local Transport Body (Total)	901,519	6
<b>Total</b>	<b>7,552,567</b>	<b>54</b>

<sup>1</sup> Population as per ONS 2016 Estimates

<sup>2</sup> Number of votes = Population/140,000 (the population of constituent authority with the smallest population, this being the Isle of Wight).

