

# **Scheme setting out proposals for the creation of a new mayoral combined authority for the North East area**

## **Sections 109 and 112 of the Local Democracy, Economic Development and Construction Act 2009**

**This scheme has been jointly prepared by:**

- Durham County Council
- Gateshead Metropolitan Borough Council
- Newcastle City Council
- Northumberland County Council
- North Tyneside Council
- South Tyneside Metropolitan Borough Council,
- Sunderland City Council.

This scheme sets out proposals to change the governance arrangements for the area of the seven councils set out above by:

- i. the abolition of the two combined authorities which currently exist in the area of the seven councils; and
- ii. the creation of a single new mayoral combined authority to cover the area of all seven councils.

## **Interpretation**

In this Scheme:

“the 2008 Act” means the Housing and Regeneration Act 2008,

“the 2009 Act” means the Local Democracy, Economic Development and Construction Act 2009,

“the Combined Area” means the area of the Constituent Councils;

“the Constituent Councils” means:

- Durham County Council
- Gateshead Metropolitan Borough Council
- Newcastle City Council
- Northumberland County Council
- North Tyneside Council
- South Tyneside Metropolitan Borough Council, and
- Sunderland City Council

and a reference to a “Constituent Council” or “Constituent Councils” shall mean any one or more of the above;

“Constituent Council Member” shall mean a member appointed to NEMCA by a Constituent Council;

“Deputy Mayor” means a Constituent Council Member who is appointed by the Mayor to act as Mayor when the Mayor is unavailable or unable to act;

“Mayor” means the mayor for the Combined Area,

“Mayoral Function” means any function of NEMCA which is the responsibility of the Mayor;

“NEMCA” means the new mayoral combined authority which is to be established for the Combined Area and known as the North East Mayoral Combined Authority,

“NECA” means the Durham, Gateshead, South Tyneside and Sunderland Combined Authority which is also known as the North East Combined Authority;

“Non-Mayoral Function” means any function of NEMCA which is not a Mayoral Function,

“NTCA” means the Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority which is also known as the North of Tyne Combined Authority.

## 1. Introduction

- a) On 28th December 2022, the 7 North East Authorities (ie Durham County Council, Gateshead Council, Newcastle City Council, North Tyneside Council, Northumberland County Council, South Tyneside Council and Sunderland City Council) agreed a “minded to” devolution deal with HM Government.
- b) The devolution deal sets out £4.2bn of government investment, which will be subject to local influence and decision making, enabling spend on local priorities, together with a range of devolved functions. The devolution deal can be found on each local authority’s website.
- c) The devolution deal is subject to the 7 North East Authorities adopting the model of a directly elected mayor over the whole of their area.
- d) This will require the abolition of the two combined authorities which currently exist in the area of the North East Authorities, namely:
  - 1.d.1 NECA which is the combined authority covering the local government areas of Durham, Gateshead, South Tyneside and Sunderland; and
  - 1.d.2 NTCA which is the mayoral combined authority covering the local government areas of Newcastle upon Tyne, North Tyneside and Northumberland.
- e) A new mayoral combined authority will then be established across the area of all 7 North East Authorities.
- f) In order to deliver these changes, the North East Authorities must follow the statutory process in the 2009 Act.
- g) As the first part of the statutory process, the North East Authorities have conducted a governance review under sections 108 and 111 of the 2009 Act in relation to the changes set out above. Having considered the findings of the review, the North East Authorities have concluded that the proposed changes would be likely to improve the exercise of statutory functions in relation to their area. They have therefore resolved to publish this scheme under sections 109 and 112 of the 2009 Act regarding the proposed creation of a new mayoral combined authority for their area. The scheme sets out the statutory functions which the new mayoral combined authority would have and how it would make decisions on the use of its statutory functions.
- h) The proposals contained in this scheme will be subject to public consultation from 26 January 2023 to 23 March 2023. At the end of that period, the 7 North East Authorities, the existing combined authorities and the Mayor of NTCA will consider the responses to the consultation and whether they wish to pursue the proposed creation of a mayoral combined authority for their area. If they do, they will then submit the consultation responses to the Secretary of State who will consider whether the statutory requirements in the 2009 Act have been met. If satisfied that the statutory tests have been met, the Secretary of State will prepare a draft of the necessary legal order to give effect to the changes, ie to

- a) abolish NECA and NTCA, and (ii) create the new mayoral combined authority for the area. Subject to necessary consents from authorities locally, the Secretary of State will lay the draft order before Parliament and seek Parliament's approval to make the order.

## **2. Proposed Mayoral Combined Authority for the North East**

### **2.1 Geography**

2.1.1 The area of the new mayoral combined authority shall be the Combined Area, ie the area consisting of the areas of the 7 North East Authorities (which are referred to in the remainder of this scheme as “the Constituent Councils”).

### **2.2 Name**

2.2.1 It is proposed that the name of the new mayoral combined authority shall be the **North East Mayoral Combined Authority (“NEMCA”)**.

### **2.3 Election of Mayor**

2.3.1 It is proposed that the first Mayor will be elected in May 2024. The Mayor will be elected by the local government electors for the Combined Area.

2.3.2 As set out in the 2009 Act, the Mayor is to be returned under the simple majority system (‘first past the post’).

2.3.3 It is proposed that the initial term of the Mayor will be 4 years and each subsequent mayoral term will also be 4 years.

2.3.4 The 2009 Act provides that the Mayor will be entitled to the style of “Mayor” and the title of the Mayor will be the North East Mayor.

### **2.4 Membership**

2.4.1 It is proposed that the membership of NEMCA will comprise 10 members.

2.4.2 The following members will be voting members for the purposes of making decisions on the exercise of Non-Mayoral Functions (see also section 2.6 below):

- the Mayor; and
- seven elected members, ie one appointed by each of the seven Constituent Councils (and these members are referred to as “Constituent Council Members”).

The above Members are collectively referred to as “the Voting Members”.

2.4.3 In addition to the Voting Members, the following individuals shall be non-voting members of NEMCA (unless NEMCA resolves to give these members a vote):

- the Chair of the Business Board (see section 3.7 below); and
- a representative of the Community and Voluntary Sector.

2.4.4 Where the members of NEMCA meet to make decisions on the exercise of the functions of NEMCA, these meetings will be referred to as Cabinet meetings.

2.4.5 Each Constituent Council shall be entitled to appoint a substitute member to act in the absence of its Constituent Council Member at a Cabinet meeting.

## **2.5 Role of the Mayor**

2.5.1 As provided by the 2009 Act, the Mayor by virtue of their office will be the Chair of NEMCA and chair Cabinet meetings.

2.5.2 The Mayor will be responsible for the exercise of those functions of NEMCA which are Mayoral Functions, as set out at section 3.1.4 below.

### **Deputy Mayor**

2.5.3 The 2009 Act requires the Mayor to appoint one of the Constituent Council Members of NEMCA as a Deputy Mayor, who will act in place of the Mayor if for any reason the Mayor is unable to act or the office of Mayor is vacant. The Deputy Mayor will chair meetings of the Cabinet in the absence of the Mayor.

## **2.6 Decision-making arrangements**

2.6.1 As set out in section 3 of this scheme, certain functions of NEMCA are Mayoral Functions. Decisions on the exercise of any Mayoral Function are to be made by the Mayor in accordance with the requirements set out at para 2.6.8. to 2.6.12 below.

### **Decision-making on non-mayoral functions**

2.6.2 All the other functions of NEMCA are Non-Mayoral Functions. Decisions on the exercise of Non-Mayoral Functions shall generally be made by the Cabinet. Cabinet may also delegate authority so that decisions on Non-Mayoral Functions can be made:

- by a committee or subcommittee of NEMCA;
- by an officer of NEMCA; or
- under joint arrangements with another local authority.

2.6.3 No business of the Cabinet will be transacted at a meeting unless the Mayor (or Deputy Mayor) and at least five Constituent Council members are present. It is proposed that the Cabinet will aim to reach decisions by consensus but, if it is not possible to reach a consensus on a matter that requires a decision, the matter will be put to the vote.

2.6.4 The Mayor and each Constituent Council Member will have one vote. The Mayor will not have a second or casting vote. Decisions of Cabinet will be decided by way of a simple majority of the Voting Members present except for those decisions outlined in paragraphs 2.6.6 and 2.6.7 below.

2.6.5 If the Mayor does not vote with the majority of Cabinet the Mayor may seek a review of the decision taken by the Cabinet (a "Mayoral Review"). Such a

review will cause the Cabinet decision to be re-considered by the Cabinet and the Cabinet may confirm or change its original decision. The reasons for the Cabinet's decision will be published. (NB: The opportunity for the Overview and Scrutiny Committee of NEMCA to call in certain Cabinet decisions will commence after the expiry of the deadline for a Mayoral Review or conclusion of a Mayoral Review process.) For the avoidance of doubt, decisions on Non Mayoral Functions identified in paragraphs 2.6.6 and 2.6.7 shall not be subject to a Mayoral Review.

2.6.6 Decisions at any meeting of the Cabinet on the following Non-Mayoral Functions will require the unanimous support of all Voting Members (ie the Mayor and all seven Constituent Council Members):

- Approval of, and any amendment to, NEMCA's annual budget excluding those elements of the annual budget which relate to Mayoral functions;
- Approval of, and any amendment to, the setting of any levy which NEMCA shall apply to any Constituent Council;
- Agreement to confer upon the Mayor a duty to produce a Spatial Development Strategy.

2.6.7 Decisions at any meeting of the Cabinet on non-mayoral transport functions (as set out in Part 3 of this Scheme) and other functions which are not presently held by NTCA and/or NECA will by way of a simple majority of the Voting Members present at the meeting provided that the Mayor must also have voted in favour of the proposal for it to be approved.

### **Decision-making on Mayoral Functions**

2.6.8 In accordance with the 2009 Act, any Mayoral Function will be exercisable only by the Mayor. The Mayor may delegate such a function:

- to the Deputy Mayor,
- to another Constituent Council Member of NEMCA,
- to an officer of NEMCA, or
- under joint arrangements.

2.6.9 It is proposed that any member or officer of NEMCA may assist the Mayor in the exercise of Mayoral Functions, but that the Mayor cannot delegate a decision on a Mayoral Function to their political advisor.

2.6.10 The Mayor will be required to consult the Cabinet on any policy or strategy relating to the exercise of a Mayoral Function. The Mayor's exercise of Mayoral Functions will be subject to the following specific conditions:

- a) The adoption by the Mayor of any Spatial Development Strategy (or amendment thereto) will require the consent of at least four Constituent Council Members at a Cabinet meeting;
- b) Cabinet will be able to amend the Mayor's budget if at least five Constituent Council Members agree to do so at a Cabinet meeting;

- c) Cabinet will be able to amend the Mayor's transport strategy (including but not limited to the Local Transport Plan) if a simple majority of Constituent Council Members at a Cabinet meeting agree to do so.

2.6.11 It is also proposed that some decisions in respect of Mayoral Functions will require the consent of the Constituent Council Member appointed by a Constituent Council directly affected by the decision. This consent requirement applies to the following:

- a) The use of the highway powers listed in section 3.2.6 below;
- b) The compulsory purchase of land or buildings by the Mayor (see sections 3.4.1 and 3.4.3 below);
- c) The designation of any area of land as a Mayoral Development Area and/or the establishment of a Mayoral Development Corporation (NB: the consent of the relevant national park authority is also required if the land falls within a national park area) (see section 3.4.2 below);
- d) Any decision that could lead to a financial liability falling directly upon that Constituent Council; and
- e) Such other matters as may be contained in NEMCA's constitution and agreed with the Mayor.

2.6.12 It is proposed that in relation to the Mayoral Functions, joint arrangements under section 101(5) of the Local Government Act 1972 are provided for by Order, in accordance with section 107E of the 2009 Act.

## **2.7 Scrutiny Arrangements**

2.7.1 The Mayor and the Cabinet will be scrutinised and held to account by NEMCA's Overview and Scrutiny Committee.

2.7.2 In accordance with the 2009 Act, NEMCA will ensure that the Overview and Scrutiny Committee has power to:

- a) review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of NEMCA;
- b) make reports or recommendations to NEMCA with respect to the functions that are the responsibility of NEMCA;
- c) make reports or recommendations to NEMCA on matters that affect the Combined Area or the inhabitants of the Combined Area.

2.7.3 NEMCA's arrangements must also ensure that the Overview and Scrutiny Committee has power to:

- a) review or scrutinise decisions made, or other action taken, in connection with the discharge by the Mayor of any Mayoral Functions;
- b) make reports or recommendations to the Mayor with respect to the discharge of any Mayoral Functions;
- c) make reports or recommendations to the Mayor on matters that affect the Combined Area or the inhabitants of the Combined Area.



- 2.7.4 The Committee shall have the power to “call-in” certain decisions taken by the Mayor or NEMCA (in which event the Committee can direct that (a) a decision is not to be implemented while it is under review by the Committee, and (b) recommend that the decision be reconsidered by the decision-maker).
- 2.7.5 Membership of the Overview and Scrutiny Committee shall consist of an equal number of members from each Constituent Council and such other independent persons as may be appointed by NEMCA. The appointment of members to the Overview and Scrutiny Committee shall reflect political balance across the whole of NEMCA’s area at the time of their appointment.
- 2.7.6 The Chair of the Overview and Scrutiny Committee will be an “Appropriate Person” within the meaning of sub-paragraph (5)(a) of Schedule 5A of the 2009 Act and will be an elected member of a Constituent Council but not a person who is a member of a registered political party of which the Mayor is a member. The Chair of the Overview and Scrutiny Committee will be appointed by the Committee as the first item of business of the Committee in any municipal year.
- 2.7.7 The Overview and Scrutiny Committee may appoint such Sub-Committees as it deems necessary to fulfil its functions.

## **2.8 Audit**

- 2.8.1 NEMCA will appoint an Audit Committee, which will carry out the statutory functions of an audit committee in accordance with the 2009 Act, which include:
- a) reviewing and scrutinising NEMCA's financial affairs;
  - b) reviewing and assessing NEMCA's risk management, internal control and corporate governance arrangements;
  - c) reviewing and assessing the economy, efficiency and effectiveness with which resources have been used in discharging NEMCA's functions; and
  - d) making reports and recommendations to NEMCA in relation to reviews the Committee has conducted.
- 2.8.2 Membership of the Audit Committee shall consist of an equal number of members from each Constituent Council and at least one independent person appointed by NEMCA who shall chair the Audit Committee. The appointment of members to the Audit Committee shall reflect political balance across the whole of NEMCA’s area at the time of their appointment.

## **2.9 Appointments - political advisors**

- 2.9.1 It is proposed that the Mayor may appoint one person as the Mayor's political adviser.

## **2.10 Standing Orders**

- 2.10.1 It is proposed that NEMCA will make standing orders for the regulation of its proceedings and business and may vary or revoke any such orders.

## **2.11 Remuneration**

2.11.1 NEMCA shall approve a scheme for allowances for Members, following consideration of a report from an Independent Remuneration Panel.

2.11.2 The Mayor shall be paid an allowance as agreed by the Constituent Council Members of Cabinet, following consideration of a report from an Independent Remuneration Panel.

2.12.3 The Independent Remuneration Panel for these purposes may be a panel appointed by NEMCA for this purpose or a panel already established by one of the Constituent Councils.

### **3 Functions of the Mayoral Combined Authority**

#### **3.1 General**

3.1.1 The prime purpose of NEMCA is to improve the exercise of statutory functions in relation to the Combined Area. In pursuit of this prime purpose, NEMCA will take on those functions set out in the “minded to” Devolution Deal (and retain those functions which were previously exercised by NECA and NTCA in respect of their areas).

3.1.2 Mayoral Functions will be the responsibility of the Mayor, and are exercisable only by the Mayor, unless delegated by the Mayor.

3.1.3 Where any Mayoral or Non-Mayoral Function is concurrent (ie shared) with any Constituent Council, then NEMCA and the Constituent Council shall agree arrangements for its exercise. NEMCA and the Constituent Councils will agree operating protocols for the exercise of these concurrent functions by NEMCA where considered appropriate. These protocols will recognise the strategic role of NEMCA and safeguard the role of the Constituent Councils in local decision making and delivery.

3.1.4 The following are Mayoral Functions:

#### **Transport**

- a) Power to draw up a Local Transport Plan and strategies
- b) Bus franchising powers
- c) Ability to pay grants to bus service operators.
- d) Ability to pay grants to the Constituent Councils for exercising transport functions.

#### **Housing and planning**

- a) Power to designate Mayoral Development Areas and establish Mayoral Development Corporations
- b) Housing and land acquisition powers (including compulsory purchase) to support housing, regeneration, infrastructure and community development and wellbeing
- c) Power to draw up a Spatial Development Strategy (subject to NEMCA agreeing to allocate the power to the Mayor)

#### **Finance**

- a) Power to set a precept on council tax to fund Mayoral Functions
- b) Power to charge business rate supplement (subject to ballot)

3.1.5 For the purposes of the discharge of Mayoral functions the Mayor may do anything that NEMCA may do under section 113A of the 2009 Act (functional power of competence) other than borrow money.

- 3.1.6 All other functions of the Combined Authority will be Non-Mayoral Functions.
- 3.1.7 In addition to the above, the Constituent Councils and NEMCA may enter into arrangements under section 101 of the Local Government Act 1972 and/or section 9EA of the Local Government Act 2000 and the Local Authorities (Arrangements for Discharge of Functions) (England) Regulations 2012 to allow the delegation of functions from a Constituent Council to NEMCA or vice versa. Any such delegation arrangement will require the agreement of NEMCA and the relevant Constituent Council.
- 3.1.9 NEMCA may also enter into joint arrangements with any Constituent Council or other local authority, in respect of Non-Mayoral Functions, in accordance with section 101(5) of the Local Government Act 1972

## **3.2 Transport**

### **Local Transport Authority and Local Transport Plan**

- 3.2.1 At present NECA is the Local Transport Authority for its area and NTCA is the Local Transport Authority for its area. Therefore, NECA and NTCA currently have transport functions for their respective areas. However, NECA and NTCA jointly exercise their transport functions through the Joint Transport Committee which comprises elected members from both NECA and NTCA.
- 3.2.2 If NEMCA is created it will be the Local Transport Authority for the Combined Area under the Transport Act 2000. As NECA and NTCA will be abolished, the Joint Transport Committee will also cease to exist. NEMCA will exercise the transport functions for the Combined Area which were previously held by NECA and NTCA.
- 3.2.3 The Mayor will be given the functions in Part 2 of the Transport Act 2000 to produce a Local Transport Plan and associated strategies. As set out at para 2.6.10 above, the Cabinet of NEMCA will be able to amend the Local Transport Plan and strategies if a majority of members agree to do so. All other transport functions of NEMCA will be Non-Mayoral Functions unless explicitly identified in this scheme as Mayoral Functions (see para 3.1.4 above).
- 3.2.4 It is proposed that the Mayor will be able to exercise the functions of a minister of the Crown contained in section 31 of the Local Government Act 2003 to pay grants to the Constituent Councils for exercising transport functions. This power would be devolved from government to enable funding from government to be paid to Constituent Councils.

### **Roads**

- 3.2.5 NEMCA will agree a Key Route Network (KRN) of those roads across the Combined Area which are maintained by the Constituent Councils as highway authorities for their respective areas. NEMCA will develop and agree a strategy for the Key Route Network. To support this, the allocation of all local roads maintenance funding will be determined by NEMCA within the context of its City Region Sustainable Transport Settlement (CRSTS).
- 3.2.6 NEMCA will also hold concurrently with the constituent authorities the following powers:
- section 6 of the Highways Act 1980 (enabling the Secretary of State or Highways England to delegate or enter into an agreement with NEMCA in relation to the construction, improvement or maintenance of trunk roads);
  - section 8 of the Highways Act 1980 (enabling NEMCA to enter into agreements with other such authorities in relation to the construction, improvement, maintenance etc. of a highway within the Combined Area);

- sections 33, 33A and 36 of the Traffic Management Act 2004 (which would allow NEMCA to operate a permit scheme for the carrying out of specified works in specified streets);
- section 39 of the Road Traffic Act 1988 (promotion of road safety)
- Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement)(England) Regulations 2005 (enforcement of bus lane contraventions)

The exercise of any of these powers by NEMCA will require the consent of the Constituent Council Member appointed by a Constituent Council directly affected by the decision.

3.2.7 Central government intends to legislate to give the mayor of each mayoral combined authority a power of direction (if the mayor agrees) to allow them to direct local authorities on exercising their powers in respect of the KRN.

### **Buses**

3.2.8 Following government reform of Bus Service Operator Grants, NEMCA will be granted powers under section 154 of the Transport Act 2000 to make grants to bus service operators.

3.2.9 NEMCA will become a franchising authority under the Transport Act 2000. This Act provides for the Mayor to carry out functions in relation to making, varying or revoking a bus franchising scheme.

### **Membership of Transport for the North**

3.2.10 It is proposed that NEMCA shall become a Constituent Authority of Transport for the North ("TfN"), which is the Sub-National Transport Body for the North of England

### **Nexus**

3.2.11 Nexus is the passenger transport executive for the Tyne and Wear area for the purposes of the Transport Act 1968 and an Executive Body of NECA and NTCA for the purposes of Part 5 of the Local Transport Act 2008 and Part 6 of the Local Democracy, Economic Development and Construction Act 2009. Nexus will continue in these roles in respect of NEMCA. Subject to the agreement of Nexus, NEMCA and the relevant County Council, the remit of Nexus may be extended to include Northumberland and/or Durham.

3.2.12 Nexus will be treated as if it is an officer of NEMCA in the application of section 101 of the Local Government Act 1972.

### **Tyne Tunnels**

3.2.13 The Tyne Tunnels (consisting of the vehicular, cycle and pedestrian tunnels and associated landholdings) will be transferred from the joint ownership of

NECA and NTCA to the MCA, as will all property, rights and liabilities held by NECA and NTCA.

### **3.3 Adult Education / Skills and Employment**

- 3.3.1 It is proposed that NEMCA will be given devolved functions in respect of Adult Education and will control the Adult Education Budget (AEB) from the academic year 2024/2025. (These arrangements will not cover apprenticeships training or persons subject to adult detention.)
- 3.3.2 These functions include those set out in the following sections of the Apprenticeships, Skills, Children and Learning Act 2009:
- a) section 86 (education and training for persons aged 19 or over and others subject to adult detention);
  - b) section 87 (learning aims for persons aged 19 or over: provision of facilities);
  - c) section 88 (learning aims for persons aged 19 or over: payment of tuition fees);
  - d) section 90 (encouragement of education and training for persons aged 19 or over and others subject to adult detention);
  - e) section 100 (provision of financial resources).

Sections 86 to 88, 90, 100, 101, 103, 115 and 121 of the Apprenticeships, Skills, Children and Learning Act 2009 will be modified to enable NEMCA to exercise the Adult Education/Skills and employment functions set out above.

- 3.3.3 In addition, NEMCA will also have the following authority functions to be held concurrently with the Constituent Councils:
- a) section 15ZA, 15ZB, 15ZC, 18A(1)(b), 514A and 560A of the Education Act 1996 (functions related to the provision of work experience);
  - b) sections 10 and 12 of the Education and Skills Act 2008 to ensure that its functions are exercised so as to promote the effective participation in education and training of relevant persons in its area aged 16 and 17, and to make arrangements to enable it to establish (so far as possible) the identities of such relevant persons;
  - c) sections 68, 70, 71 and 85 of the Education and Skills Act 2008 to make available to young persons and relevant young adults such support services as it considers appropriate to encourage, enable and assist the effective participation of such persons in education and training, and functions relating to co-operation with other authorities;
  - d) section 13A of the Education Act 1996 to ensure that their education and training functions are exercised with a view to promoting high standards, fair access to opportunity for education and training, and the fulfilment of learning potential;
  - e) section 51A of the Further and Higher Education Act 1992 to require relevant institutions in the further education sector to provide appropriate education to specified individuals aged between 16 and 18 years.



3.3.4 It is proposed that NEMCA and DWP will establish an Inclusive Economy Board for the Combined Area to promote local employment and sustainable supply chains.

## **3.4 Housing and Planning Functions**

### **3.4.1 Housing**

3.4.1.1 In order to exercise the functions outlined in the “minded to” Devolution Deal, it is proposed that NEMCA will be granted the following powers concurrently with the Constituent Councils or Homes England (which was formerly known as the Homes and Communities Agency) as appropriate.

3.4.1.2 It is proposed that NEMCA will be granted devolution of the objectives and functions of Homes England under section 2(1) of the Housing and Regeneration Act 2008 (to be exercised only in respect of the Combined Area) and the following powers contained in the 2008 Act will be exercised by NEMCA concurrently with Homes England (“HE”):

- a) section 3 (principal power);
- b) section 4 (general powers);
- c) section 5 (powers to provide housing or other land);
- d) section 6 (powers for regeneration, development or effective use of land);
- e) section 7 (powers in relation to infrastructure);
- f) section 8 (powers to deal with land etc);
- g) section 9 (acquisition of land);
- h) section 10 (restriction on disposal of land);
- i) section 11 (main powers in relation to, and for, statutory undertakers);
- j) section 12 (powers in relation to, and for, statutory undertakers);
- k) section 19 (power to give financial assistance);
- l) paragraphs 19 and 20 of Schedule 3 (powers in relation to burial grounds and consecrated land etc.);
- m) paragraphs 1,2,3,4,6,10 and 20 of Schedule 4 (extinguishment or removal powers for HE).

3.4.1.3 These functions will be Non-Mayoral with the exception of the specific HE compulsory purchase powers in section 9 of the 2008 Act (see below).

3.4.1.4 The objectives in section 2(1) of the 2008 Act are to provide NEMCA with the necessary powers:

- a) to improve the supply and quality of housing;
- b) to secure the regeneration or development of land or infrastructure;
- c) to support in other ways the creation, regeneration or development of communities or their continued well-being; and
- d) to contribute to the achievement of sustainable development and good design

with a view to meeting the needs of people living in the area.

3.4.1.5 The functions in this section include powers enabling the achievement of the above objectives. Such powers include the power of compulsory purchase contained in section 9 of the 2008 Act (subject to the authorisation of the Secretary of State). In order to achieve the objectives above, it is proposed

that NEMCA should also have the benefit of exemption from section 23 of the Land Compensation Act 1961, which is enjoyed by the HE under section 23(3)(d) of that Act.

3.4.1.6 As set out above, it is proposed that the exercise of the compulsory purchase power contained in section 9 of the 2008 Act, will only be exercisable by the Mayor with the consent of the Constituent Council Member(s) for the area(s) of land to be compulsorily acquired and the Secretary of State.

3.4.1.7 It is proposed that NEMCA should be granted the power to acquire land for the development of housing under section 17 of the Housing Act 1985 and the associated section 11, 12 and 18. It is proposed that the power to acquire land compulsorily under section 17(3) of the Housing Act 1985 will be a Mayoral function but will require the consent of the Constituent Council Member for the Constituent Council for the area(s) of land to be compulsorily acquired and the Secretary of State. The conferral of such powers on NEMCA will be entirely without prejudice to the exercise of those powers by the Constituent Councils which will exercise those powers as before.

### **3.4.2 Mayoral Development Corporation**

3.4.2.1 It is proposed that the Mayor will have the power to designate an area a Mayoral Development Area (“MDA”) and so create a Mayoral Development Corporation (“MDC”) to help drive regeneration and expedite housing delivery on complex schemes in the area. The advantage of MDCs is that they have most of the powers of an Urban Development Corporation but are controlled locally rather than by the Secretary of State.

3.4.2.2 It is proposed that Part 8, Chapter 2 of the Localism Act 2011 be modified so that references to the GLA, Greater London and the London Mayor would include NEMCA and the Mayor. This would enable NEMCA to have functions for the Combined Area corresponding to the following functions contained in the Localism Act 2011 that the Mayor of London has:-

- a) Section 197 (designation of Mayoral Development Areas);
- b) Section 199 (exclusion of land from Mayoral Development Areas);
- c) Section 200 (transfers of property etc to a Mayoral Development Corporation);
- d) Section 202 (functions in relation to town and country planning);
- e) Section 204 (removal or restriction of planning functions);
- f) Section 214 (powers in relation to discretionary relief from non-domestic rates);
- g) Section 215 (reviews);
- h) Section 216 (transfers of property, rights and liabilities);
- i) Section 217 (dissolution: final steps);
- j) Section 219 (guidance by the Mayor);
- k) Section 220 (directions by the Mayor);
- l) Section 221 (consents);
- m) Paragraph 1 of Schedule 21 (membership);

- n) Paragraph 2 of Schedule 21 (terms of appointment of members);
- o) Paragraph 3 of Schedule 21 (staff);
- p) Paragraph 4 of Schedule 21 (remuneration etc: members and staff);
- q) Paragraph 6 of Schedule 21 (committees); and
- r) Paragraph 8 of Schedule 21 (proceedings and meetings).

3.4.2.3 It is proposed that the Mayor's power to designate an area a MDA under section 197 of the Localism Act 2011 will require the consent of the Constituent Council Member(s) whose local government area contains any part of the MDA.

3.4.2.4 It is further proposed that the Mayor's power to exclude land from a MDA under section 199 of the Localism Act 2011 will require the consent of the Constituent Council Member whose local government area contains any part of the area to be excluded from the MDA.

3.4.2.5 It is also proposed that the London Mayor's power under section 202 of the Localism Act 2011 to decide that a MDC should have certain planning functions in relation to the whole or part of a MDA should be modified in relation to the Mayor so that the Mayor can only exercise this power with the consent of the Constituent Council Member(s) for the local government area concerned and (where appropriate) the Northumberland National Park Authority

### **3.4.3 Economic Development and Regeneration**

3.4.3.1 It is proposed that NEMCA shall have the functions of the Constituent Councils under section 1 of the Localism Act 2011 (local authority's general power of competence) so far as those functions are exercisable for the purpose of economic development and regeneration. This general power of competence, which will be a non-mayoral function, will be in addition to the powers given to NEMCA under Section 113A of the Local Democracy, Economic Development and Construction Act 2009.

It is proposed that NEMCA will have the power to exercise any of the functions described in subsection (1)(a) and (b) of section 88 of the Local Government Act 1985 (research and collection of information) whether or not a scheme is made under that section. For the purposes of section 88(1) of the Local Government Act 1985 references to "that area" are to be taken as a reference to the Combined Area.

3.4.3.2 It is proposed that NEMCA will be granted the power to exercise concurrently with the Constituent Councils the functions of the Constituent Councils to compulsorily acquire land for development and other planning purposes under section 226 of the Town and Country Planning Act 1990 and the associated powers under sections 227, 229, 230, 232, 233, 235, 236, 238, 239 and 241 of the Town and Country Planning Act 1990. NEMCA's exercise of such powers will in each instance be subject to the consent of the Constituent Council Member in whose area the property is located.

3.4.3.3 The conferral of such powers on NEMCA will be entirely without prejudice to the exercise of those powers by the Constituent Councils who will be able to exercise those powers as they did previously.

### **3.4.4 Strategic Place Partnership**

3.4.4.1 It is proposed that NEMCA and Homes England will establish a Strategic Place Partnership to work together to identify and develop key opportunities for housing delivery.

### **3.4.5 Planning**

3.4.5.1 It is proposed that, subject to Cabinet agreeing by way of a unanimous decision of all Voting Members (ie the Mayor and all seven Constituent Council Members), the Mayor will have the power to create a statutory Spatial Development Strategy for the Combined Area. If agreed, this will coordinate strategic land-use planning with strategic transport planning providing a framework to achieve a strategic level change in environmental planning policy to reduce carbon emissions and tackle the climate emergency.

3.4.5.2 The development of the scope and preferred approach to a Spatial Development Strategy will require an inclusive and collaborative approach to be taken by the Mayor together with other members of NEMCA and the Constituent Councils.

3.4.5.3 It is proposed that the Mayor will have the functions for the Combined Area corresponding to the following functions contained in the Greater London Authority Act 1999 ("the 1999 Act") which the Mayor of London exercises in relation to Greater London or where appropriate such sections will apply subject to appropriate modifications:

- a) Section 334 (the spatial development strategy);
- b) Section 335 (public participation);
- c) Section 336 (withdrawal);
- d) Section 337 (publication);
- e) Section 338 (examination in public);
- f) Section 339 (review of matters affecting the strategy);
- g) Section 340 (review of the strategy);
- h) Section 341 (alteration or replacement);
- i) Section 342 (matters to which the Mayor is to have regard);
- j) Section 343 (ability of the Secretary of State to make regulations);
- k) Section 344 (amendments to the Town & Country Planning Act 1990);
- l) Section 346 (monitoring and data collection);
- m) Section 347 (constituent councils to have regard to the strategy); and
- n) Section 348 (Mayor's functions as to planning around Greater London)

3.4.5.4 The exercise of any of the functions corresponding to the functions in sections 33(public participation), 336 (withdrawal), 337 (publication) and 341 (alteration or replacement) of the 1999 Act by the Mayor will require the consent of the Constituent Council Members of NEMCA.

### **3.5 VAT**

- 3.5.1 For the avoidance of doubt, NEMCA will be a body specified for the purposes of Section 33 of the Value Added Tax Act 1994. This will entitle NEMCA to claim refunds of Value Added Tax charged on supplies to, and acquisitions or importations by NEMCA.

### **3.6 Information Sharing**

- 3.6.1 It is proposed that sections 17A and 115 of the Crime and Disorder Act 1998 should be amended to give NEMCA the same standing as a Local or Public Authority for the purpose of information sharing.

### **3.7 LEP Integration**

- 3.7.1 In accordance with government policy on the integration of Local Enterprise Partnerships (“LEPs”), it is proposed that NEMCA will take on the functions and responsibilities of the North East LEP, including its staffing, assets and ongoing local growth funding streams. The relationship with business will be integral to the proposed arrangements. In order to carry on the work of the North East LEP’s Board, NEMCA will establish a business board comprising representatives from the business community and other relevant stakeholders to provide advice and challenge to the Mayor and Cabinet. The Chair of the Business Board will be a non-voting member of NTCA’s Cabinet.

### **3.8 Partnership Arrangements with the Police and Crime Commissioners**

- 3.8.1 The Mayor and NEMCA will work closely with the Police and Crime Commissioners for Durham and Northumbria to develop strong partnership arrangements, ensuring a joined-up approach between community policing and place-based services.

### **3.9 Continuity**

- 3.9.1 The staffing, assets, rights and liabilities of NTCA and NECA will transfer on their abolition to NEMCA.

### **3.10 Incidental Provisions**

- 3.10.1 NEMCA will be treated as a local authority for the purposes of:

- a) section 113 of the Local Government Act 1972 (placing staff at the disposal of other local authorities);
- b) section 142(2) of the Local Government Act 1972 (power to arrange for publication of information etc relating to functions of the authority);
- c) section 144 of the Local Government Act 1972 (the power to encourage visitors and provide conference and other facilities);
- d) section 145 of the Local Government Act 1972 (provision of entertainments);

- e) section 222 of the Local Government Act 1972 (power to prosecute and defend legal proceedings); and
- f) section 69 of the Local Democracy, Economic Development and Construction Act 2009 Act (duty to prepare an assessment of economic conditions).



## **4. Finance and Investment**

### **4.1 Levies**

4.1.1 NEMCA will have the power to issue to the Constituent Councils levies under section 74 of the Local Government Finance Act 1988 to meet the expenditure that is reasonably attributable to the exercise of its functions. It is proposed that NEMCA will be able to issue three transport levies (in accordance with the Transport Levying Bodies Regulations 1992) as is currently the case across the Combined Area, ie a levy for Durham, a levy for Northumberland and a levy for the Tyne and Wear area.

### **4.2 Precept**

4.2.1 It is proposed that the Mayor will have the power under section 40 of the Local Government Finance Act 1992 to issue a Council Tax Precept on behalf of NEMCA to provide for the costs of the Mayor that are incurred in, or in connection with, the exercise of Mayoral Functions.

4.2.2 Any precept in relation to Mayoral Functions will be subject to scrutiny and amendment under the procedure relating to the Mayor's budget.

### **4.3 Mayor's budget**

4.3.1 NEMCA will follow the procedure set out in the Combined Authorities (Finance) Order 2017 to approve the Mayor's budget. This provides that the Mayor must prepare a draft budget in respect of Mayoral Functions by 1 February each year, setting out the Mayor's spending plans for the forthcoming year and how the Mayor intends to meet the costs of Mayoral Functions, and including the relevant amounts and calculations to be used for the purpose of determining the precept. The Cabinet will be able to amend the Mayor's Budget on a vote passed by a majority comprising at least 5 [ie 2/3] of the Constituent Council Members.

### **4.4 Borrowing**

4.4.1 It is proposed that the Secretary of State make regulations pursuant to section 23(5) of the Local Government Act 2003 to provide NEMCA with borrowing powers for its Mayoral and Non-Mayoral Functions.

### **4.5 Business Rate Supplement**

4.5.1 It is proposed that the Mayor will have the power, with the agreement of NEMCA and in consultation with the business community, to raise a Business Rate Supplement to fund infrastructure investment. NEMCA will be a levying authority for the purposes of the Business Rates Supplement Act 2009 and the Constituent Councils shall be deemed to be acting jointly through NEMCA in accordance with section 2(3) of the Business Rates Supplement Act 2009.

### **4.6 Constituent Councils' funding of NEMCA**

4.6.1 Provision shall also be made for the Constituent Councils to meet the costs of NEMCA and how the costs are to be apportioned between the Constituent Councils.