

**From:** Mike Whiting, Cabinet Member for Planning, Highways, Transport and Waste

Barbara Cooper, Corporate Director of Growth, Environment and Transport

**To:** Environment and Transport Cabinet Committee – 17 January 2019

**Subject:** Sub-national Transport Bodies: Transport for the South East

**Classification:** Unrestricted

**Past Pathway of Paper:** N/A

**Future Pathway of Paper:** N/A

**Electoral Division:** All divisions

**Summary:**

This report outlines the proposed establishment of a Sub-national Transport Body (STB) for the South East; Transport for the South East (TfSE) which plans to consult on its proposal to Government in 2019.

Government is seeking to transform transport and rebalance the economy by offering areas legal powers for transport through the creation of STBs. The South East 7 (SE7) councils initially proposed the establishment of an STB for the South East, which has now expanded to include 16 Local Transport Authorities (LTAs) and the 5 Local Enterprise Partnerships (LEPs) that cover the area. Kent County Council (KCC) and Medway Council are included. The development of TfSE is being led by East Sussex County Council.

TfSE will speak with a single voice on the South East's transport needs to directly influence the decisions of national infrastructure providers and operators. Once a statutory body, the Secretary of State must have regard to the transport strategy in agreeing the investment priorities of Highways England and Network Rail. Key to this is the development of a Department for Transport (DfT) prescribed transport strategy which is being developed over the next 27 months.

TfSE is operating in 'shadow' form until it becomes a statutory body. To become a statutory body, it needs to submit a proposal to Government with a request for transport powers. If that proposal is accepted by the Secretary of State, it will then be taken through Parliament. TfSE will undertake a public consultation on its proposal in summer 2019, however, before that, there will be a period of informal engagement with its constituent authorities, including KCC, in early 2019. Following the consultation, a formal proposal to Government is expected to be submitted in late 2019, which if approved, would lead to TfSE having statutory powers post 2020.

**Recommendation:**

Cabinet Committee is asked to note the progress of establishing a Sub-national Transport Body, Transport for the South East, and the forthcoming informal engagement with Kent County Council in early 2019, before a formal consultation in summer 2019, a response to which will be brought to Cabinet Committee in July.

## **1. Background**

- 1.1. The 2015 Budget promised to offer areas legal powers to transform transport and rebalance the economy through the creation of Sub-national Transport Bodies (STBs).
- 1.2. The Cities and Local Government Devolution Act (2016) allows organisations to draw down powers from central government. The Secretary of State for Transport has the power to establish STBs for any area outside of Greater London.
- 1.3. The powers of each STB must be requested in a proposal to the Secretary of State, with the consent of all its constituent transport authorities, and then agreed in law.
- 1.4. There are currently four STBs in England. Transport for the North (TfN) became a statutory body in April 2018, and the three remaining STBs (Midlands Connect, England's Economic Heartland, and Transport for the South East) are currently operating in 'shadow' form and working towards gaining statutory status in 2020.
- 1.5. There are early discussions underway in the South West and East of England to establish STBs for these areas.

## **2. Transport for the South East (TfSE)**

- 2.1. The South East 7 (SE7) councils proposed the establishment of an STB for the South East that would bring central Government, the South East's Local Transport Authorities (LTAs) and Local Enterprise Partnerships (LEPs) together with Highways England, Network Rail and port, airport, rail and bus operators in one body; Transport for the South East (TfSE).
- 2.2. TfSE is now a partnership of 16 LTAs and 5 LEPs. Kent County Council (KCC) is currently a constituent authority (as 'resolved' at the Environment and Transport Cabinet Committee on 17 November 2016 on the proposed decision (16/00120) taken by the Leader to establish and participate in the formation of TfSE) working in partnership with:
  - East Sussex County Council (lead authority and Accountable Body)
  - West Sussex County Council
  - Medway Council
  - Hampshire County Council
  - Surrey County Council
  - Brighton and Hove City Council
  - Southampton City Council
  - Portsmouth City Council
  - Isle of Wight Council
  - The Berkshire unitary authorities through the Berkshire Local Transport Body (LTB) which includes West Berkshire, Wokingham, Windsor & Maidenhead, Bracknell Forest, Reading and Slough.

- Five LEPs within the TfSE area are also included: South East LEP (SELEP), Enterprise M3, Coast to Capital, Solent and Thames Valley Berkshire.
- 2.3 Although it is subject to future changes, potentially with votes based on population, currently each of these authorities has a vote on the 'shadow' Board (Berkshire LTB has one vote for its 6 constituent unitary authorities) and the 5 LEPs share 2 votes between them. KCC is represented to the Leader or delegated to the Cabinet Member of Deputy Cabinet Member for Planning, Highways, Transport and Waste. There is also a representative for the Local Planning Authorities (LPAs) (district/borough councils within two tier council areas). The Chair of the Transport Forum is also represented on the Board (the Transport Forum includes representatives of operators – bus, train, ferry, ports, airports etc plus Network Rail and Highways England). National Parks and protected landscapes are represented by the South Downs National Park. The first 'shadow' Board meeting took place in June 2017 and meets quarterly. It is Chaired by Keith Glazier, Leader of East Sussex County Council.
- 2.4 Each constituent authority contributes £58,000 per year (unitary authorities £30,000) to TfSE to fund its development. This has been matched by £1million of funding from the Department for Transport (DfT).
- 2.5 Supporting the 'shadow' Board is the Senior Officer Group (SOG), led by Rupert Clubb, Director at East Sussex County Council. Below the SOG are three working groups consisting of officers from each authority. A Communications and Stakeholder Engagement working group, a Governance working group (overseeing the development of the legal order for statutory status) and the Transport Strategy working group which oversees the development of the transport strategy.
- 2.6 As agreed at the 'shadow' Board meeting on 16 July 2018, TfSE has recruited to a temporary (2-year fixed term contracts) staff structure to deliver the transport strategy and the proposal to Government for statutory status.
- 2.7 TfSE's overall vision is to grow the South East's economy by delivering a quality, integrated transport system that makes the South East more productive and competitive; and improves the quality of life for all whilst protecting the environment.
- 2.8 TfSE's promotional video can be viewed at <https://vimeo.com/269847705/dd48c76860>

### Proposed Powers and Responsibilities

- 2.9 As part of TfSE's proposal, the 'shadow' Board will need to make a decision on the powers and responsibilities that it will request from government. Officer and Member working groups within TfSE have been established to make recommendations to the 'shadow' Board. Michael Payne, Deputy Cabinet Member, represents KCC on the Member working group. Powers and responsibilities that are under consideration include:

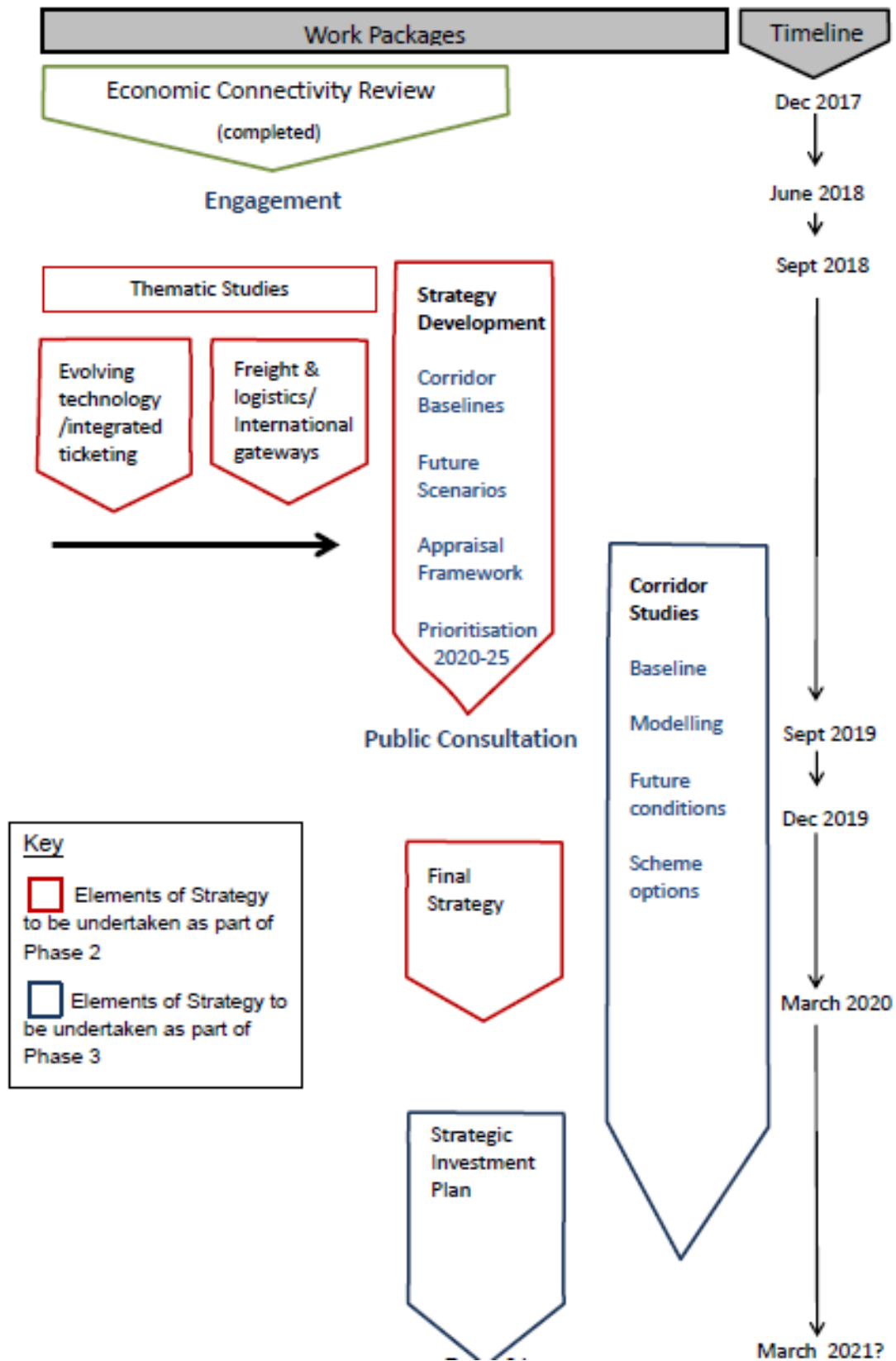
- General Functions – as set out in the Local Transport Act (2008), these functions will give TfSE the powers to develop a transport strategy for the area and to provide advice to the Secretary of State (this is the minimum power for STBs).
  - Smart and Integrated Ticketing powers for TfSE to be able to operate integrated ticketing systems across the South East.
  - Powers to promote or oppose Bills in Parliament – to enable TfSE to promote significant transport projects, including those that cross highway authority boundaries.
  - Rail operations and franchising – TfSE could request powers to influence the development of specifications for rail franchises. It is not recommended that TfSE should seek powers relating to the operation of franchises. This is primarily due to the multiple franchises that operate within the area and many of these operate beyond the boundaries of TfSE, i.e. within London.
  - Bus operations and franchising powers.
  - Air quality management – the powers to manage air quality issues arising from transport.
  - Highway powers to acquire land for the purposes of constructing highways, improving and maintaining trunk roads and local roads.
  - Charging – the ability for TfSE to introduce charging schemes for the purposes of keeping or using motor vehicles on roads. This power would be necessary to introduce Low Emission Zones, road user charging schemes or area wide workplace parking levies.
- 2.10 The proposed powers and responsibilities that could be requested in TfSE's proposal to government are set out in more detail in Appendix A to this report. All of the proposed powers and responsibilities set out in Appendix A would be concurrent with Highway Authorities' / Local Transport Authorities' (LTA) existing powers and responsibilities and would only be implemented with the consent of the affected Highway Authority / LTA and with the consensus of all of TfSE's constituent authorities.
- 2.11 The sub-group identified the need for all constituent authorities and Board Members to be in agreement over the requested powers and responsibilities prior to the full public consultation exercise on the draft proposal to government. The TfSE secretariat will therefore undertake an informal engagement exercise with elected Members and officers from the constituent authorities and LEPs. The informal engagement will take place between January and the end of February 2019. It will offer Members and officers an opportunity to fully understand the implications of specific powers and responsibilities and the circumstances in which they may be applied. In Kent this could be through an initial presentation by TfSE to Cabinet Members, followed by a Members briefing session, a presentation to the Kent Joint Leaders and Joint Chiefs, and to the Kent and Medway Economic Partnership (KMEP) and Business Advisory Board.
- 2.12 The timetable is to submit a proposal to Government in Autumn 2019, therefore a draft proposal will be brought to the 'shadow' Board in March 2019, following the period of informal engagement between TfSE and its

constituent authorities, including KCC, in January/February. Once a draft proposal is agreed by TfSE at the 'shadow' Board meeting in March, there will be a 12-week public consultation between May and July 2019. A formal response to the consultation from KCC (as a constituent member) will be submitted by the Cabinet Member, therefore a draft response will be reported to the Environment and Transport Cabinet Committee on 16 July 2019. TfSE's post-consultation revised proposal will then be agreed at its September 'shadow' Board meeting. Constituent authorities will then need to endorse the proposal before it is submitted to Government in Autumn 2019, therefore the final proposal will be brought to Cabinet Committee (10 October 2019) before a proposed decision by Leader under Article 10 (1) and 10 (4) of the Constitution.

### Development of the Transport Strategy

- 2.13 The first stage in development of the transport strategy was an Economic Connectivity Review. This identified the economically important corridors in the South East that require further study as part of the development of the transport strategy and provided evidence of the additional Gross Value Added (GVA) that could be generated as a result of strategic investment in the South East's transport infrastructure. A consultation was conducted on the draft Economic Connectivity Review, initiated at the TfSE launch event in May 2018 at Farnborough Airport, which was attended by over a hundred industry experts and government officials. There was also a prior MP engagement event in the Houses of Parliament in Autumn 2017.
- 2.14 The diagram in Figure 1 shows the route map for the work to develop the DfT prescribed transport strategy. A draft transport strategy will be ready for public consultation (separate to the consultation on the proposal for the creation of the STB) in September 2019 and would include a statement of TfSE's initial scheme priorities for 2020-25.

Figure 1 Transport Strategy Road Map



## TfSE's work to date

- 2.15 Whilst operating in 'shadow' form, TfSE has responded to a number of consultations as a collective partnership, acting as one voice for the South East. The main consultations include Highways England's proposals for Road Investment Strategy 2 (RIS2) and the DfT's proposals for a Major Road Network (MRN).
- 2.16 Engagement with the DfT in regard to the MRN and RIS2 priorities has so far been positive. TfSE's RIS2 priorities included the improvements along the M2/A2 corridor that are essential once the new Lower Thames Crossing opens to enable bifurcation. This included dualling of the A2 Lydden to Dover, Brenley Corner (M2 Junction 7) upgrade and improvements to the A229 connection between the M2 and the M20. TfSE also submitted a bid for the gap funding for the M2 Junction 5 (Stockbury roundabout) upgrade on the A249 as a priority for early funding in the MRN programme. A DfT representative attends all 'shadow' Board, Senior Officer Group, and Transport Strategy working group meetings.
- 2.17 Furthermore, TfSE has responded to consultations on Heathrow expansion, Western Rail Access to Heathrow, Gatwick Airport's Draft Master Plan, Midlands Connect's proposal to Government, the Lower Thames Crossing and the Public Information Exercise on Solutions to Operation Stack, which gave support to KCC's position.

## **3. Conclusions**

- 3.1 Sub-national Transport Bodies (STBs) are resulting in a new level of transport planning in the UK.
- 3.2 KCC is currently a partner in the 'shadow' Transport for the South East (TfSE) along with 15 other Local Transport Authorities (LTAs) and 5 Local Enterprise Partnerships (LEPs).
- 3.3 TfSE will speak with a single voice on the South East's transport needs to directly influence the decisions of national infrastructure providers and operators (for example Network Rail and Highways England would need to 'have regard to' TfSE's transport strategy).
- 3.4 Key to this is the development of a DfT prescribed transport strategy which is being developed over the next few years.
- 3.5 A proposal to government, with the powers and responsibilities requested by TfSE (requested powers and responsibilities are still to be agreed – see paragraphs 2.9 to 2.12 and Appendix A) is expected to be submitted in 2019, with statutory status subsequently being awarded should approval be given by the Secretary of State in 2020.
- 3.6 Prior to the proposal being submitted to Government, TfSE will informally engage with its constituent authorities, including KCC, in January and February before developing a draft proposal to be agreed at its 'shadow'

Board meeting in March 2019. This draft proposal will be subject to public consultation, with KCC's formal response being made by the Cabinet Member after comment from the Environment and Transport Cabinet Committee on 16 July 2019. A post-consultation revised proposal will then be agreed at TfSE's 'shadow' Board meeting in September, which will need endorsement by KCC with a decision by the Leader under Article 10 (1) and 10 (4) of the Constitution, before TfSE's submission to Government in Autumn 2019. The proposed decision by the Leader will be brought to Cabinet Committee in October 2019.

#### **4. Financial Implications**

- 4.1 KCC contributes £58,000 per year to fund the development of TfSE. All constituent authorities make this contribution (unitary authorities contribute £30,000 per year). This has been matched by £1million of funding from the Department for Transport (DfT).

#### **5. Legal Implications**

- 5.1 N/A.

#### **6. Equalities Implications**

- 6.1 N/A at this stage of information reporting. A full Equality Impact Assessment (EqIA) will be undertaken by TfSE in drafting its proposal to government and for the Transport Strategy.

#### **7. Other Corporate Implications**

- 7.1 N/A

#### **8. Governance**

- 8.1 Proposed decision (16/00120) to be taken by the Leader to establish and participate in the formation of TfSE was 'resolved' at the Environment and Transport Cabinet Committee on 17 November 2016.
- 8.2 The Leader or Cabinet Member/Deputy Cabinet Member for Planning, Highways, Transport and Waste represents KCC on the TfSE 'shadow' Board. The Corporate Director for Growth, Environment and Transport represents KCC at the TfSE Senior Officer Group.
- 8.3 A decision will be taken by the Leader under Article 10 (1) and 10 (4) of the Constitution to endorse the proposal made by TfSE to government on powers and responsibilities relating to the establishment of TfSE following formal consultation.

#### **9 Recommendation:**

Cabinet Committee is asked to note the progress of establishing a Sub-national Transport Body, Transport for the South East, and the forthcoming informal



engagement with Kent County Council in early 2019, before a formal consultation in summer 2019, a response to which will be brought to Cabinet Committee in July.

## 10 Background Documents

Appendix A: Powers and responsibilities that could be requested in TfSE's proposal to government.

Shadow Sub-National Transport Body for the South East, Item 221, Environment and Transport Cabinet Committee, 17 November 2016  
<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=831&MId=6225&Ver=4>

Decision 16/00120 Sub National Transport Board for the South-East  
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2215>

Further information on TfSE can be found on its website  
<https://transportforthesoutheast.org.uk/>

## 11 Contact details

Report Author: Joseph Ratcliffe, Transport Strategy Manager 03000 413445 <a href="mailto:Joseph.Ratcliffe@kent.gov.uk">Joseph.Ratcliffe@kent.gov.uk</a>	Relevant Director: Katie Stewart, Director of Environment, Planning and Enforcement 03000 418827 <a href="mailto:Katie.Stewart@kent.gov.uk">Katie.Stewart@kent.gov.uk</a>
---	---

**Appendix A: Powers and responsibilities that could be requested in TfSE's proposal to government**

<b>Function/Power Requested</b>	<b>Description of Power</b>	<b>Benefits for TfSE and Partners</b>	<b>Issues to Consider</b>	<b>Example of how this could be applied</b>
<b>General Powers</b>				
<b>Coordinate Transport Functions</b>	Co-ordinate the carrying out of transport functions in the TfSE area that are currently exercisable by different constituent authorities, with a view to improving the effectiveness and efficiency in the carrying out of those functions	Efficiency savings resulting from regional scale service delivery	Protocol governing level of control to be exercised by constituent authorities.	Identification and prioritisation of improvements on the newly created Major Road Network
<b>Make proposals for transfer of functions to TfSE</b>	Enable for the transfer of functions to TfSE (where TfSE and its constituent authorities consider that a transport function in relation to its area would more effectively and efficiently be carried out by TfSE)	Efficiency savings resulting from regional scale service delivery	Protocol governing Level of control to be exercised by constituent authorities over operation of transferred functions.	Integrated ticketing, low emission zones, bus service provision
<b>Make other proposals about role and function of TfSE</b>	To make further proposal in the future for further powers and	Efficiency savings resulting from regional scale service delivery		Introduction of 'Pay as you Go Mobility' Initiatives.

Function/Power Requested	Description of Power	Benefits for TfSE and Partners	Issues to Consider	Example of how this could be applied
	responsibilities to be transferred to TfSE			
<b>Rail Franchising</b>				
<b>Right to be consulted about new rail franchises</b>	The right to be consulted before the Secretary of State issues an invitation to tender for a franchise agreement	Strategic influence over future rail franchise agreements in the TfSE area.		
<b>Set High Level Output Specification (HLOS) for rail in the TfSE area</b>	Power to act jointly with Secretary of State to set the HLOS for TfSE area setting out objectives for next railway control period.	Exert strategic influence over the future development of the rail network in the TfSE area	HLOS currently applies nationally with no geographical breakdown	HLOS would sets out TfSE's aspirations for transformational investment in rail infrastructure that will facilitate economic growth
<b>Highways</b>				
<b>Set Road Investment Strategy (RIS) for the Strategic Road Network (RIS) in TfSE area</b>	Power of Secretary of State to set and arrange the RIS	Strategic influence over future RIS in the TfSE area	RIS applies nationally with no geographical breakdown	RIS would sets out TfSE's aspirations for transformational investment in road infrastructure that will facilitate economic growth
<b>Enter into agreements to undertake certain works on Strategic Road Network, Major Road Network or local</b>	Power that local highway authorities currently have to <u>enter into agreement</u> with other highway	Improved efficiency and effectiveness in the delivery of a largescale road scheme crossing a number of local	This power only covers the ability to enter into agreement to do works and doesn't not of itself give powers for any	Enables development and delivery of regionally significant schemes that cross constituent

<b>Function/Power Requested</b>	<b>Description of Power</b>	<b>Benefits for TfSE and Partners</b>	<b>Issues to Consider</b>	<b>Example of how this could be applied</b>
<b>roads</b>	authorities to construct, reconstruct, alter, improve or maintain roads	authority boundaries	types of work to be undertaken!	authority boundaries that otherwise might not be progressed
<b>Acquire land to enable construction, improvement, or mitigate adverse effects of highway construction</b>	Power to acquire land for various purposes. Power would run concurrently and with consent of highways authorities.	Allow preparations for the construction of a highways scheme to be expedited where highways authority not in a position to acquire land	Power only to be exercisable with the consent of the highway authority	Allow preparations for the delivery of regionally significant highways schemes to be expedited where highways authority not in a position to acquire land
<b>Construct highways, footpaths, bridleways,</b>	Powers to construct highways, footpaths and bridles ways. Power would run concurrently and with consent of highways authorities.	Enable delivery of regionally significant schemes that cross constituent authority boundaries that otherwise might not be progressed	Powers to operate concurrently and with consent of highway authority	Enable delivery of regionally significant schemes that cross constituent authority boundaries that otherwise might not be progressed
<b>Charge vehicles for being kept on or using the highway</b>	Power to make a local charging scheme in respect of the use or keeping of motor vehicles on roads.	Power would be required to introduce charged clean air zones or a future road user charging scheme. Revenue stream created to fund infrastructure improvements	Power not to be used in connection with local parking schemes.	Power would be required to introduce charged clean air zones or a future road user charging scheme.
<b>Bus Service Provision</b>				
<b>Secure Provision of</b>	Local transport	Would enable TfSE to		Would enable TfSE to

<b>Function/Power Requested</b>	<b>Description of Power</b>	<b>Benefits for TfSE and Partners</b>	<b>Issues to Consider</b>	<b>Example of how this could be applied</b>
<b>Bus Services</b>	authorities have power to secure the provision of such public passenger transport services as it considers appropriate and which would not otherwise be provided. Power would run concurrently and with consent of highways authorities.	fill in identified gaps in bus service provision in its geography or secure the provision of regionally important bus services in one or more constituent authority areas in the future.		fill in identified gaps in bus service provision in its geography or secure the provision of regionally important bus services in one or more constituent authority areas in the future.
<b>Quality Bus Partnerships</b>	Powers to enable local transport authorities to enter into voluntary or statutory Quality Bus Partnerships to improve the quality of services and facilities within the scheme area. Power would run concurrently and with consent of highways authorities.	Would enable Quality Bus Partnerships to be introduced over wider geographical areas.		Would enable roll out of infrastructure improvements such as real time bus information with associated improvements in service provision over wider travel to work areas.

<b>Function/Power Requested</b>	<b>Description of Power</b>	<b>Benefits for TfSE and Partners</b>	<b>Issues to Consider</b>	<b>Example of how this could be applied</b>
<b>Bus Service Franchising</b>	Power of Mayoral Combined Authorities with the powers to implement bus franchising in their area.		This system operated in London but very limited experience elsewhere. Rigorous process required to enact powers.	Would enable Bus Franchising arrangements to be introduced over wider geographical areas.
<b>Smart Ticketing</b>				
<b>Introduce Integrated Ticketing Schemes</b>	Powers to make joint and through ticketing Schemes.	Benefits to users and regional economy of improved access to employment and services across the TfSE area.	Demand in South East for these arrangements. Set up costs. Back office systems. Agreements with operators. Integration with existing products in the South East (Oyster, Go-Solent & Key in B&HCC)	The introduction of smart and integrated ticketing arrangements at a regional scale
<b>Air Quality</b>				
<b>Establish Clean Air Zones</b>	Powers to introduce traffic regulation orders restricting the types of vehicles that can come into an area and powers to charge vehicles for entering an area (see charging powers below)	Air quality issues do not respect local authority boundaries. Ability to introduce larger clean air zones improving more efficiently. If zone is 'charged for' would generate revenue stream.	Growing concern about the air pollution and mounting evidence of its impact on people's health.	Ability to introduce larger scale air quality zones where air quality issue extends across existing boundaries.
<b>Other Powers</b>				
<b>Promote or oppose bills</b>		Would give TfSE the		Expedite the delivery of

<b>Function/Power Requested</b>	<b>Description of Power</b>	<b>Benefits for TfSE and Partners</b>	<b>Issues to Consider</b>	<b>Example of how this could be applied</b>
<b>in Parliament</b>		power to promote regionally significant transport projects and oppose Bills being promoted by others		regionally significant schemes that cross constituent authority boundaries that otherwise might not be progressed

**Transport for the South East (TfSE) has also given consideration to a wide range of powers and does not propose seeking the functions set out in the table below:**

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