

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD937

Title: Establishment of GLA Companies

Executive Summary:

To acquire a GLA holding company and a subsidiary company ("the Companies") in order to facilitate compliance with an order that is to be made under the Localism Act 2011 concerning commercial activities of the Homes and Communities Agency, the London Development Agency and the London Thames Gateway Development Corporation that are being devolved to the Greater London Authority ("GLA").

Decision:

That the Mayor agrees:

- (1) To acquire two companies: a company 'Greater London Authority Holdings Limited', limited by shares and wholly owned by the Greater London Authority which will be a holding company for a further wholly owned subsidiary company 'GLA Land and Property Limited', also limited by shares;
- (2) That the proposed activities of 'GLA Land and Property Limited' be as set out in Appendix A;
- (3) That Edward Lister (Chief of Staff), Martin Clarke (Executive Director of Resources) and David Lunts (Interim Executive Director of Housing and Regeneration) be appointed as directors of Greater London Authority Holdings Limited and GLA Land and Property Limited;
- (4) That the Articles of Association of each of Greater London Authority Holdings Limited and GLA Land and Property Limited shall provide that all decisions of that company are subject to the GLA's Scheme of Delegation as may be amended from time to time; and
- (5) That any one of the Chief of Staff or the Executive Director of Resources may make any decision on behalf of the GLA in its capacity as sole shareholder of Greater London Authority Holdings Limited, save where such decision is significant in policy terms or is novel or contentious.

Mayor of London

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct for elected Members of the Authority. Any such interests are recorded below.

The above request has my approval.

Signature



Date

30.6.12

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. Introduction and background

The Localism Act 2011 (“the Localism Act”) inserted a new section 34A to the Greater London Authority Act 1999 (“the GLA Act”) which provides that the GLA may carry on specified activities for a commercial purpose but only if it does so through a subsidiary company. The activities will be specified in an order to be made by the Secretary of State. It is anticipated that the specified activities order will refer to land and property activities presently undertaken by the London Development Agency (“LDA”) and the London arm of the Homes and Communities Agency (“HCA”) and London Thames Gateway Development Corporation (“LTGDC”) which are currently subject to tax. It is proposed that when the relevant assets of the LDA, HCA and LTGDC are transferred to the GLA they will be transferred directly to the Companies. In preparation for this, the GLA Companies now need to be acquired.

2. Issues for consideration

- a) A company ‘Greater London Authority Holdings Limited’ is proposed to be acquired to act as a holding company for a subsidiary company ‘GLA Land and Property Limited’ which is also to be acquired. This structure allows other future subsidiary companies to be held by the holding company if required which would help optimise the GLA’s future tax position.
- b) Essentially, the subsidiary company is intended to secure tax efficiency for the commercial activities of the LDA, HCA and LTGDC that will be devolved to the GLA. The proposed activities of the subsidiary are set out at Appendix A.
- c) The Companies will be private companies limited by shares and wholly owned by the GLA. In order to ensure the Companies are operational for the transfer of assets from LDA, HCA and LTGDC, appointments of directors of the company need to be made now. The Mayor is asked to agree that his Chief of Staff, the Executive Director of Resources and the Interim Executive Director of Housing and Regeneration be appointed as directors under the Companies Act 2006 of each of the Companies. Pending the finalisation of the GLA’s new housing and regeneration responsibilities these appointments could be revised and it is proposed that any revision to such appointments would be handled through the proposed delegation to the Chief of Staff and Executive Director of Resources of the GLA’s decisions as sole shareholder of Greater London Authority Holdings Limited, save where such decision is significant in policy terms or is novel or contentious.
- d) This company structure is required to discharge the GLA’s new responsibilities and the requirements of company law, and the Companies Act 2006 in particular, must be complied with. Subject to those constraints, it is not intended that the activities for which the Companies are responsible be subject to governance and decision making outside that which applies to the GLA itself. It is, therefore, proposed that any decisions required to be made by the Companies are subject to the GLA’s Scheme of Delegation as may be amended from time to time.
- e) It is proposed that TfL will provide company secretarial support on a cost recovery basis.
- f) Consideration has been given to the Protocol on Mayoral Appointments, in particular, Part C which requires that assessment processes be proportionate. Given that: (a) the purpose of these Companies is to meet the GLA’s statutory functions, (b) the directors proposed in this paper will be carrying out their duties as directors of the Companies under their contracts of employment and will not receive separate or additional remuneration, and (c) the directors proposed will have been subject to the GLA’s usual recruitment processes when they were employed, officers advise that no additional screening or assessment is necessary.

3. Financial Comments

The establishment of this company structure seeks to ensure that the GLA's new commercial activities will be undertaken in the same tax environment as the LDA, HCA and LTGDC operated in. The costs of establishing this company structure will be met from the provision made for the costs of devolution. The ongoing costs of the companies (eg. Staff time chargeable to the company, auditor's fees etc.) will be charged directly and financed from the income arising from the Companies' activities.

4. Legal Comments

Power to set up company

The Localism Act devolves the housing and regeneration functions from HCA London and the LDA to the GLA.

The Localism Act inserts a new section 34A to the GLA Act which provides that the GLA may carry on specified activities for a commercial purpose but only if it does so through a subsidiary company. The activities will be specified in an order made by the Secretary of State. The specified activities order has not been laid yet but it is anticipated that it will shortly be done so and will refer to activities undertaken in relation to land and property. It is anticipated that this will affect the land and property which will be transferred from LDA and HCA to the GLA which is currently subject to tax.

Section 30 of the GLA Act allows the Mayor, acting on behalf of the Authority, to do anything which he considers will further the promotion of the economic and social development of Greater London and the improvement of the environment within Greater London. The formation of these companies will promote both economic and social development in Greater London.

Section 30(4) of the Act provides that the Authority should exercise its section 30 powers in the way which it considers best calculated to promote the improvement of health of persons in Greater London and to contribute towards the achievement of sustainable development in the United Kingdom, except to the extent the Authority considers not reasonably practicable. The formation of these companies will facilitate the Mayor's housing and regeneration functions which will promote the improvement of health and contribute towards the achievement of sustainable development.

Sections 190 and 191 of the Localism Act provide that property, rights and liabilities may be transferred from LDA and HCA to a subsidiary company of the GLA using transfer schemes. Part 2 of Schedule 14 to the Localism Act specifies the tax treatment for the transfer schemes.

Delegation

The administration of each of the Companies will be a matter for their respective directors and shareholders.

In the case of GLA Land and Property Limited, that will be the directors proposed above, acting both as directors of GLA Land and Property Limited and as the decision makers of Greater London Authority Holdings Limited, the sole shareholder. In practice, the directors of Greater London Authority Holdings Limited may elect to appoint one of them to act on their behalf as a "shareholder representative" in order to facilitate decision making.

In the case of Greater London Authority Holdings Limited, its directors will be those proposed above and the GLA is its sole shareholder. Many of the decisions required in relation to Greater London Authority Holdings Limited will be administrative or procedural in nature and it is, therefore,

proposed that decisions are made on behalf of the GLA by the Chief of Staff or the Executive Director of Resources, save where such decision is significant in policy terms or is novel or contentious.

5. Investment & Performance Board

In view of the urgency in establishing the company structure, this issue has not been considered by the Investment and Performance Board. However, it is proposed that any decisions to be made by the companies will be subject to prior approval under the GLA's decision-making processes.

6. Background/supporting papers

None.

Public access to information

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the GLA website within 1 working day of approval. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. Deferment is only applicable where release before that date would compromise the implementation of the decision being approved.

Is the publication of this approval to be deferred? NO

If yes, for what reason:

Until what date:

Is there a part 2 form - NO

ORIGINATING OFFICER DECLARATION:

Tick to indicate approval (✓)

Drafting officer:

David Gallie has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

Assistant Director/Head of Service:

David Gallie has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Sponsoring Director:

Martin Clarke has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Edward Lister has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

OFFICER APPROVAL

Executive Director, Resources

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report.

Signature *M. D. Galie*

Date 25.1.12

Chief of Staff

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature *E. W.*

Date 25/01/2012

APPENDIX A - Draft Proposed Activities of 'GLA Land and Property' a subsidiary company (or companies) of the GLA Holding Company

Please note that references to 'the company' below may include one or more subsidiaries. The exact detail of this is still to be determined.

- 1) The purpose of the company will be the management of land and property to facilitate the Mayor's housing and regeneration policies. Management of land may include purchase or sale of land, development of land and/or holding land for investment purposes or rental. This will not include activities carried out on a non-commercial basis for instance the payment of social housing grants to Registered Social Landlords, local authorities and other public bodies.
- 2) Income will be generated from the land and property by either development and sale, as part of a property trade, or by retaining it, possibly following development, to generate rental income and capital growth, as an investment. In practice the two types of activity may be carried out by separate GLA subsidiaries.
- 3) The specific activities of the company will be as follows, (subject to the enactment of the below transfers);
 - To continue the business currently carried on by the LDA, which involves the trade of the development of property for sale, as well as its separate activity of investing in land and property to achieve rental income and capital growth.
 - To continue the housing and regeneration business of the HCA.
 - To continue the regeneration activities of the London Thames Gateway Development Corporation that do not transfer to the Mayor's Olympic Park Development Corporation
 - To purchase, manage and sell additional land and property in line with the Mayor's housing and regeneration policies. In practice this will be by the company alone, or in conjunction with other partners, through outsourcing or as joint ventures.
- 4) The company will be financed, at least partly by debt, to enable it to carry on its activities, including for example the remaining CPO payments on behalf of the LDA. Specifically, the debt from the Public Works Loan Board currently borrowed by the LDA will be assigned to the GLA and the GLA will then lend the funds down to the company on an arms length, interest bearing basis.

The company may also seek additional financing to allow it to make further purchases and work towards its regeneration aims.