

**Appendix 1**

**CABINET**

**14<sup>th</sup> April 2010**

**Port of Sunderland Governance Arrangements**

**Report of the Deputy Chief Executive**

**1.0 Purpose of Report**

- 1.0 This report updates members with regard to the progress on the appointment of a new Port Director and to the establishment of the Port Board, and seeks approval to the terms of reference for the Board and the details of its proposed composition.

**2.0 Description of Decision**

- 2.1 That Cabinet agrees to;
- i) Recommend to full Council for its approval the terms of reference for the Port Board and the details of the Board's proposed composition as set out in this report to operate in the new Civic Year 2010/11.
  - ii) Authorise the Deputy Chief Executive to assess the expressions of interest received for the positions of co-opted Board members and to make recommendations to full Council in due course for the formal appointment of the relevant individuals.

**3.0 Background**

- 3.1 At its meeting in November 2009 the full Council agreed to re-designate Port functions as Council functions and also agreed that a new Port Board be established as a committee of the Council to be responsible for the discharge of operational Port functions. Expressions of interest were subsequently sought through public advertisement for the appointment of co-opted members for the new Board and also for a new Port Director to manage the day-to-day operations at the Port.

- 3.2 In line with best practice as set out in the Municipal Ports Review the new Port Board will comprise of Council member appointees and co-opted appointees. As a Council committee the normal political balance provisions will apply to the Council member appointments.

#### **4.0 Current Position**

- 4.1 At its meeting on the 5<sup>th</sup> February 2010 the Personnel Committee appointed a new Port Director who will take up his post on the 1<sup>st</sup> June 2010.
- 4.2 Following advertisement of the Port Board opportunity, a number of expressions of interest have been received from persons wishing to be considered as co-opted members to the Board. Officers will now assess the applications received against a person specification for the position that has been developed with specialist consultancy support. It is anticipated that the establishment of the Board will take place at the commencement of the new civic year, 2010/11. This will enable the new governance arrangements previously approved by Cabinet and full Council in November 2009 to become effective.
- 4.3 In relation to the proposed composition of the Board, it is considered that the Board should consist of a relatively small number of members, sufficient so as to be responsive when speedy decisions may be required, but also sufficient to maintain a quorum. Accordingly, it is proposed that the Board should comprise of 5 Council members and 2 co-opted appointees.

#### **5.0 Terms of Reference**

- 5.1 The Port Board will be responsible for the discharge of the Council's statutory and commercial functions in relation to the Port, and will be charged with budget management and developing new business opportunities in line with the Port's Business Improvement Plan. Generally it is proposed that the Deputy Chief Executive will retain the delegated officer functions for the Port and the current officer delegation limits as set out in the Council's Procurement Procedure Rules for the award of Port contracts will continue to apply. The Port Director reporting to the Port Board will operate within a Directorate delegation scheme as agreed by the Deputy Chief Executive.
- 5.2 However it is proposed that the following three operational matters are specifically delegated to the Port Director which are "local choice functions" namely:

- to exercise the Council's jurisdiction under S.14 of the Sunderland as harbour undertakers within the port.
- to exercise the duties of the Council under S.15 to provide, to maintain, operate and improve the facilities of the port facilities and generally under Part III of the Act.
- to exercise the powers of the Council in relation to docks contained within Part V of the Act and generally in relation to all other matters under the Act including the exercise of powers pursuant to Byelaws made under sections 63 and 65.

There will need to be a consequential amendment to the delegated power 2.55 of the Deputy Chief Executive to state, "Subject to those matters delegated to the Port Director, to secure the discharge of the statutory obligations of the Council as Port Authority in compliance with such legislation or guidance as may, from time to time, be published by Government".

5.3 It is proposed that the terms of reference for the Board will be as follows;

- (i) to exercise all of the Council's functions in respect of the Port under the Harbours Act 1964, the Sunderland Corporation Act 1972, the Pilotage Act 1987 and all other relevant statutory provisions;
- (ii) to manage the Port business and to take commercial decisions in relation to the Port business, including entering into contracts with existing and prospective Port users and the procurement of works, services and supplies for the Port, in accordance with the Council's budget and policy framework and the Port budget and business plan approved by Council (subject to delegations to officers);
- (iii) to manage and maintain the Port assets and estate, namely the maintenance of the existing assets, the acquisition of new assets, and the disposal of leasehold interests in accordance with the agreed budget and business plan;
- (iv) to act as duty holder in relation to the exercise and discharge of the Council's functions and duties under the Port Marine Safety Code and all other legislation or guidance as may from time to time be published by the Government;
- (v) to submit reports to Council on an annual basis regarding the performance of the Port during the preceding year in light of the agreed budget and business plan.

## **6.0 Alternative Options**

- 6.1 The alternative options were set out and fully explored in the Cabinet report of the 25 June 2009, attached for information.

## **7.0 Reason for Decision**

- 7.1 To ensure that the governance and business management arrangements in respect of the Port are fit for purpose and accord with best practice recommendations as set out in the Municipal Ports Review.
- 7.2 To ensure that the operation of the new Board coincides with the commencement of the employment of the new Port Director.

## **8.0 Consultations**

- 8.1 The Chief Solicitor and Director of Financial Resources have been consulted and their comments are contained in the body of the report.

## **9.0 Background papers**

- 9.1 Port of Sunderland file held in the Office of the Chief Executive