

<b>CABINET MEETING – 18th June 2014</b>  <b>EXECUTIVE SUMMARY SHEET – PART I</b>	
<b>Title of Report:</b>	SUNDERLAND STRATEGIC TRANSPORT CORRIDOR – NEW WEAR CROSSING  SCHEME UNDER SECTION 106(3) OF THE HIGHWAYS ACT 1980 AND LICENCE UNDER SECTIONS 66 AND 67 OF THE MARINE AND COASTAL ACCESS ACT 2009
<b>Author(s):</b>	Deputy Chief Executive
<b>Purpose of Report:</b>	The purpose of the report is to gain approval to obtain the statutory permissions needed to construct the New Wear Crossing in the River Wear due to its tidal nature. The permissions include <i>making a scheme</i> and seeking its confirmation by the Secretary of State for Transport under section 106(3) of the Highways Act 1980; and for making an application to the Marine Management Organisation to vary and extend the approved Marine Licence to accommodate the revised bridge design for the New Wear Crossing.
<b>Description of Decision:</b>	Cabinet is recommended to: <ul style="list-style-type: none"> <li>• Approve the making of a scheme under section 106(3) of the Highways Act 1980 in relation to the proposed New Wear Crossing and thereafter the submission of the scheme to the Secretary of State for Transport for confirmation;</li> <li>• Approve the making of an application to the Marine Management Organisation to vary and extend the approved Marine Licence under sections 66 and 67 of the Marine and Coastal Access Act 2009; and</li> <li>• Authorise the Deputy Chief Executive and the Head of Law and Governance to take all necessary action to achieve confirmation of the above scheme and variation of the Marine Licence.</li> </ul>
<b>Is the decision consistent with the Budget/Policy Framework?</b>	<b>Yes</b>
<b>If not, Council approval is required to change the Budget/Policy Framework</b>	

**Suggested reason(s) for Decision:**

Statutory powers are needed to authorise the temporary and permanent restrictions on navigation in the tidal River Wear, as a result of the New Wear Crossing.

**Alternative options to be considered and recommended to be rejected:**

The necessary scheme and licence must be in place to allow the bridge to be built. There is therefore no alternative option if the Project is to proceed.

**Impacts analysed;**

Equality

☒

Privacy

☐

Sustainability

☐

Crime and Disorder

☐

Is this a “Key Decision” as defined in  
the Constitution? Yes

Is it included in the 28 day Notice of  
Decisions? Yes

Scrutiny Committee

**CABINET**

**18<sup>TH</sup> JUNE 2014**

**SUNDERLAND STRATEGIC TRANSPORT CORRIDOR – NEW WEAR CROSSING**

**SCHEME UNDER SECTION 106(3) OF THE HIGHWAYS ACT 1980 AND LICENCE UNDER SECTION 66 OF THE MARINE AND COASTAL ACCESS ACT 2009**

**REPORT OF THE DEPUTY CHIEF EXECUTIVE**

**1. Purpose of the Report**

- 1.1 The purpose of the report is to obtain approval to obtain the statutory permissions needed to construct the New Wear Crossing in the River Wear due to its tidal nature. This includes *making a scheme* and seeking its confirmation by the Secretary of State for Transport under section 106(3) of the Highways Act 1980; and for making an application to the Marine Management Organisation to vary and extend the approved Marine Licence to accommodate the revised bridge design for the New Wear Crossing.

**2. Description of the Decision**

- 2.1 Cabinet is recommended to:
- Approve the making of a scheme under section 106(3) of the Highways Act 1980 in relation to the proposed New Wear Crossing and thereafter the submission of the scheme to the Secretary of State for Transport for confirmation;
  - Approve the making of an application to the Marine Management Organisation to vary and extend the approved Marine Licence under sections 66 and 67 of the Marine and Coastal Access Act 2009; and
  - Authorise the Deputy Chief Executive and the Head of Law and Governance to take all necessary action to achieve confirmation of the above scheme and variation of the Marine Licence.

**3. Background**

**3.1 The Project**

- 3.1.1 On 17<sup>th</sup> July 2013, Cabinet approved the commencement of a new design and build procurement process for the New Wear Crossing.

## **3.2 Section 106(3) – Highways Act 1980**

- 3.2.1 A section 106(3) scheme and Marine Licence are required to ensure the Project can be delivered with the necessary statutory approvals in place.
- 3.2.2 The authority to construct a bridge over navigable water and thereby restrict the space available for navigation can be obtained by means of a bridge scheme under section 106(3) of the Highways Act 1980 (the scheme). Schemes under section 106(3) are made by the local authority and, subject to procedural steps, are confirmed by the Secretary of State by way of a Statutory Instrument.
- 3.2.3 A scheme currently exists for the proposed temporary bridge, to be used to facilitate construction of the permanent structure, which the Department for Transport's casework team has confirmed remains valid.
- 3.2.4 In accordance with government guidance on promoting section 106(3) schemes, an informal preliminary consultation with river users and relevant statutory bodies was carried out in April 2014. No objections were received. One response was received, from the Wear Rivers Trust, who noted that the existing assessments of the scheme remain valid due to the retention of the single central pier within the river.

## **3.3 Marine Licence**

- 3.3.1 A Marine Licence provides the authority to construct a bridge over navigable water, where the navigable water is tidal and the works are expected to cause an obstruction or danger to navigation. Consent is granted by the Secretary of State under sections 66 and 67 of the Marine and Coastal Access Act 2009.
- 3.3.2 The Marine Licensing process came into effect on 6 April 2011, replacing the old licensing procedures under the Food and Environment Protection Act (FEPA) 1985 and the Coast Protection Act (CPA) 1949.
- 3.3.3 The New Wear Crossing has an existing Marine Licence, which was granted in November 2011 (under the old FEPA/ CPA licensing system) and is valid until December 2014.

## **4. Proposals**

- 4.1 It is proposed that a scheme be made and submitted for confirmation to the Secretary of State on the basis of a minimum clear navigable waterway of 30 metres, a headway of not less than 12 metres, and an overall bridge span of approximately 336 metres, using a 3 span arrangement.

## **5. Reasons for the Decision**

- 5.1 Statutory powers are needed to authorise the temporary and permanent restrictions on navigation in the tidal River Wear as a result of the New Wear Crossing.

## **6. Alternative Options**

- 6.1 The necessary scheme and licence must be in place to allow the bridge to be built. There is therefore no alternative option if the Project is to proceed.

## **7. Relevant Considerations**

### **7.1 General**

- 7.1.1 The previous bridge scheme was confirmed-by the Secretary of State in October 2012.
- 7.1.2 The new bridge scheme provides the required minimum navigation channel both in the temporary and permanent state (12m high by 30m wide).
- 7.1.3 The variation to the Marine Licence is minimal, with the reduction in size of the central pier being the only change from the original approved licence; an extension to the licence is also required, with the current licence expiring in December 2014. It is proposed that the licence is extended by 36 months to cover the duration of the works.

### **7.2 Financial implications**

- 7.2.1 The costs of preparing and making the applications are covered within the overall costs for the New Wear Crossing within the approved Capital Programme; therefore, there are no additional financial implications associated with this decision.

### **7.3 Compatibility with the European Convention on Human Rights**

- 7.3.1 It is not considered that the recommended decision will result in interference with any convention right.

## **8. Background papers**

Cabinet Report 'SUNDERLAND STRATEGIC TRANSPORT CORRIDOR – NEW WEAR BRIDGE SCHEME UNDER SECTION 106(3) OF THE HIGHWAYS ACT 1980 AND CONSENT UNDER SECTION 34 OF THE COAST PROTECTION ACT 1949', 9<sup>th</sup> September 2009.

Cabinet Report 'SSTC - New Wear Crossing', 17<sup>th</sup> July 2013.

The Sunderland City Council (Sunderland Strategic Transport Corridor – New Wear Bridge) Scheme 2009.

Marine licence ref 34686/10/0/CON.