

ADDITIONAL PAPER

**WEST MIDLANDS REGIONAL ASSEMBLY
Assembly Board of Directors**

15 January 2010

**Transitional arrangements for the WMRA conformity role and
statutory consultee status**

1. Purpose

- 1.1 To recommend a process for delegating formal WMRSS conformity and statutory consultee responses made by the West Midlands Regional Assembly after 1st February 2010 and during the period of transition between the WMRA and the WMLB.

2. Recommendation

- 2.1 The Board is asked to approve that from the 1st February 2010 onwards all formal conformity and statutory consultee responses made on behalf of the WMRA are delegated to the Assembly's Chief Executive in consultation with the appropriate regional members.

3. Background

- 3.1 Under the Planning and Compulsory Purchase Act 2004 Local Planning Authorities (LPAs) in the Region must request the opinion in writing of the WMRA as to the general conformity of a Development Plan Document (DPD) with the Regional Spatial Strategy when they are submitting a DPD to the Government Office. LPA's can also make a similar request to the RPB with regard to any other Local Development Document (LDD) that they produce. Once an opinion of general conformity has been requested the WMRA has a duty to provide such an opinion to the LPA within the timescales stipulated by them.
- 3.2 Additionally, the Act also makes the WMRA a statutory consultee on planning applications submitted to LPA's that are considered to be of major importance to the implementation of the RSS or a relevant regional policy.
- 3.3 Formal advice is prepared for consideration on behalf of the WMRA by officers from the Strategic Authorities. This is then checked by the WMRA Secretariat and presented to a Conformity Panel that comprises the Chair and Vice-Chairs of the RPEE as core members with nominated alternates. The decision of the Conformity Panel in relation to this advice is then given as the response of WMRA to the relevant LPA. The WMRA Secretariat is delegated to provide a response to any informal conformity request or consultations that are received.

- 3.4 The Local Democracy, Economic Development and Construction Act 2009 will remove the formal requirement for LPAs to request an opinion of general conformity with Regional Strategy after the 1st April 2010. The West Midlands Leaders Board will be a statutory consultee in the preparation of DPDs and will continue to be a statutory consultee in respect of certain planning applications. The question of how consultations received by the WMLB will be considered and responded to after 1st April 2010 will be a question for the WMLB and Joint Strategy and Investment Board (JSIB) to consider in the near future.
- 3.5 During the transition period the Assembly is expected to continue to receive consultations from LPAs on DPDs and planning applications. However, the timescale for responding to these consultations will increasingly be likely to be beyond the 31st March 2010 end date for eh Regional Assembly.
- 3.6 Given the above dilemma, careful consideration needs to be given to the legal position regarding responses being made by the WMRA and the WMLB in the period of transition. Continuity in the flow of advice to the Regions Local Authorities is critical in order for them to proceed with DPD preparation and the determination of planning applications of regional importance. The WMRA Secretariat has already been asked questions by LPAs and representatives of the development sector regarding the issue and it is a matter that requires the urgent attention of the Assembly Board as the current arrangements will pose problems.
- 3.7 The most practical solution to ensure a continuity of advice during the period of transition is the vesting of formal decision making authority with the Assembly's Chief Executive from the 1st February 2010 until new decision making procedures are agreed by the WMLB/JSIB. In making a decision on advice up to the 31st March 2010 the Chief Executive will first consult with the Chair and Vice Chairs of the RPEE.
- 3.8 Members of the Assembly Board are asked to agree to this delegation of powers as a practical and expedient procedure to ensure LPAs in the Region can continue to receive proper and timely advice in relation to the WMRSS and Regional Strategy.

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