

Cabinet

Report Title	West Midlands Combined Authority (Functions and Amendment) Order 2017 - Combined Authority Roads
Date of Meeting	Wednesday, 10 September 2025
Report Author	Mike Jones - Monitoring Officer, Service Director – Governance
Lead Officer	Executive Director - Place
Lead Cabinet Member(s)	Cabinet Member for Environment and Highways
Why is this a key decision?	To be significant in terms of its effect on communities living or working in an area comprising two or more wards of the Borough.
Wards Affected	(All Wards);
Identify exempt information and exemption category	Open
Is the report urgent?	No
Reasons for urgency (only where applicable)	N/A
Appendices (if any)	<ol style="list-style-type: none"> 1. Schedule 1 to the West Midlands Combined Authority (Functions and Amendment) Order 2017 2. Powers granted to the WMCA in relation to Combined Authority Roads

1. Executive Summary

This report seeks authority to agree to the submission of a proposal to amend the West Midlands Combined Authority (Functions and Amendment) Order 2017 to the Secretary of State, following the upcoming meeting of the he Secretary of State, following the West Midlands Combined Authority (WMCA) Board meeting on 12th September 2025, and the subsequent laying of the draft Order before Parliament once received from the Secretary of State for Transport.

2. Recommendations

The Cabinet is recommended to:

- 2.1 Delegate Authority to the Chief Executive in consultation with the Leader and Cabinet Member for Environment and Highways to consent to the submission of the proposal to amend the 2017 Order to the Secretary of State for Transport, following the WMCA Board meeting on 12 September;
- 2.2 Delegate authority to the Chief Executive in consultation with the Leader and Cabinet Member for Environment and Highways to consent to the laying of the draft order once it has been received from the Secretary of State for Transport.

3. Proposals – Reasons for the recommendations

- 3.1 Schedule 1 of The West Midlands Combined Authority (Functions and Amendments) Order 2017(2017 Order) (Appendix 1) prescribed a list of Combined Authority Roads. This designation allows the West Midlands Combined Authority (WCMA) to exercise various functions in relation to these roads (Appendix 2) with some of those functions being Mayoral only functions by virtue of Article 22 of the 2017 Order.
- 3.2 The WMCA is the only combined authority whose statutory orders designate certain roads as Combined Authority Roads.
- 3.3 S.107ZA of Local Democracy and Construction Act 2009 (2009 Act), as amended by the Levelling-up and Regeneration Act 2023, grants the power to combined authorities to designate a highway in its area as a Key Network Road (KNR), or remove that designation, with the consent of its constituent authorities and its mayor. The explicit designation of Combined Authority Roads in Schedule 1 causes the WMCA two main issues:
 - 3.3.1 The WMCA now has the power to designate KNRs, but Schedule 1 only allows the WMCA to use to its powers over the roads already specified as Combined Authority Roads.
 - 3.3.2 The ability to undesignate roads as KNRs is blocked as their designation as Combined Authority Roads would remain as provided for in the 2017 Order.
- 3.4 To resolve the discrepancy between the WMCA's 2017 Order and s.107ZA of the Local Democracy, Economic Development and Construction Act 2009 (LDEDCA 2009), an Order is required to be made under ss.104, 105 and 114 of LDEDCA 2009 to amend the 2017 Order to remove Schedule 1. An Order under ss.104 and 105 must follow the process as set out in s.112A of

LDEDCA 2009 and can only be made with the consent of the constituent authorities and the Combined Authority.

- 3.5 The KNRs were agreed between Transport for West Midlands (TfWM) and the West Midlands Metropolitan Councils in 2016 and designated within the subsequent WMCA legislation. The designation's purpose was to support the growth ambition of the region and defined roads which:

3.5.1 Serve the main strategic demand flows of people, goods, and services.

3.5.2 Serve large traffic volumes.

3.5.3 Provide connections to the national strategic road network (SRN).

- 3.6 In anticipation of Levelling Up and Regeneration Act 2023 the KNRs were reviewed taking account shifts in travel demand post COVID-19 and a growing focus on active travel and public transport within the WMCA and its partners.

- 3.7 In line with the emerging West Midlands Local Transport Plan 5 (WMLTP5) and the pursuit of a 45-minute region, the role of the KNRs have refocused from moving vehicles to facilitating journeys. The KNRs now reflect a resilient, inclusive, and accessible network that supports the mayor's 'Journeys for Everyone' priority. The total length of KNRs has increased from 605km to 643km, accounting for 8% of the total road network.

- 3.8 WMCA has therefore liaised with the Department for Transport to agree the most appropriate way to obtain an amendment to the 2017 Order to remove the designation of combined authority roads and resolve this discrepancy.

- 3.9 At the WMCA Board meeting on 13 June 2025, the following decision was made:

- (1) That WMCA Board agree to initiate a period of statutory consultation in relation to the removal of Schedule 1 to the West Midlands Combined Authority (Functions and Amendment) Order 2017.
- (2) That the consultation run from 23 June 2025 to 15 August 2025 for 8 weeks.
- (3) That a report be brought back to the WMCA Board on 12 September detailing the outcome of the consultation and proposed next steps.

- 3.10 At the WMCA Board meeting on 12 September, the outcome of the consultation will be considered. Should the WMCA Board decide to continue with the submission to the Secretary of State for Transport, the WMCA

Monitoring Officer will write to all constituent councils, detailing the outcome of the consultation and the decision of the WMCA Board. Each constituent Council will be requested to consider the information provided and whether to consent to the submission of the proposal to the Secretary of State for Transport.

- 3.11 Given the timescales and the relatively technical nature of this amendment it is recommended that this decision and the subsequent decision regarding the laying of the Order, be taken under delegated authority by the Chief Executive in consultation with relevant Cabinet Members.

4. Alternative Options Considered

- 4.1 The granting of the power to combined authorities to designate KNRs does not make inoperable the powers afforded to the WMCA in relation to the combined authority roads in the 2017 order, nor does it make it impossible for the WMCA to designate new KNRs. It will however prohibit the WMCA from using the powers listed in Appendix 2 in relation to any newly designated KNRs and it will stop the WMCA from removing any roads from the existing combined authority roads list.
- 4.2 Taking no action will mean that there continues to be a discrepancy in the legislation that will stop the WMCA being able to use the powers already granted to it (and to all CAs) in the intended way.
- 4.3 Furthermore, whilst it may be possible for the KNR to be amended in the English Devolution Bill, it has not been confirmed by MHCLG that any such provision will be made to this and therefore the position will remain.

5. Consultation

- 5.1 The WMCA commenced public consultation in relation to this matter on 23 June 2025. The results of this consultation will be considered by the WMCA Board at its meeting on 12 September 2025. The outcome of this discussion and the consultation report will then be provided to all constituent authorities to support them in deciding whether to consent to the submission of the request to amend the 2017 Order.

6. Financial Implications

- 6.1 No immediate financial implications result from this report and the proposed changes to the Order.

7. Legal and Governance Implications

- 7.1 S.107ZA of Local Democracy, Economic Development and Construction Act 2009 (LDEDCA 2009), as amended by the Levelling-up and Regeneration Act 2023 (LURA 2023), grants the power to combined authorities to designate a highway in its area as a key network road (“KNR”), or remove that designation, with the consent of its constituent authorities and its mayor.
- 7.2 The WMCA is the only combined authority whose statutory order designates particular roads as combined authority roads which has resulted in a situation where WMCA now has the power under s.107ZA of LDEDCA to designate KNR’s but its power to remove that designation may be somewhat fettered as the designation as combined authority roads would remain as provided for in Schedule 1 of The West Midlands Combined Authority (Functions & Amendments) Order 2017 (‘2017 order’).
- 7.3 Following discussion with the Department for Transport, it was agreed that the appropriate process to remove the existing designation was to seek an order pursuant to s.104 and/or s.105 and s.114 of LDEDCA 2009, pursuant to the submission of a proposal under s.112A.
- 7.4 Before a proposal can be submitted to the Secretary of State for Transport, the WMCA must follow the procedure as provided for in s.112A(3) of LDEDCA 2009 which requires a public consultation to be carried out across the area of the WMCA and have regard to the results of this consultation in preparing the proposal for submission to the Secretary of State.
- 7.5 Following the conclusion of the Consultation, consent will be required from all constituent councils and the WMCA to submit a proposal to the Secretary of State for Transport to amend the 2017 Order.
- 7.6 Once the Secretary of State for Transport has provided the amended Statutory Instrument, further consent will be required from each constituent council and the WMCA to the laying of the Order.

8. Risks

- 8.1 There are no issues relating the Council’s risk management framework. The proposal set out in the report will enable the WMCA to utilise new powers given to it under the 2009 Act as amended.

9. Equality and Diversity Implications (including the public sector equality duty)

- 9.1 There are no direct positive or negative impacts arising from the proposals in the report relating to the Council's commitment to equality and diversity.

10. Other Relevant Implications

- 10.1 There are no direct or indirect implications arising from this report.

11. Background Documents

- 11.1 None.

12. How does this deliver the objectives of the Strategic Themes?

- 12.1 This report will support the delivery of the following Strategic Themes:

- Living in Sandwell
- Healthy in Sandwell
- Thriving Economy in Sandwell

- 12.2 The proposals will underpin continued collaborative working between the Council and WMCA ensuring key designated roads are identified and designated. The continued designation of these roads will support wider economic activity and movement within borough, ensuring access to employment, leisure, retail and health opportunities thereby supporting residents and a thriving economy.

Relevance Check

Budget Reduction/Service Area:

Service Lead:

Date: **19 August 2025**

In what ways does this Budget reduction have an impact on an outward facing service? How will the service feel different to your customers or potential customers?

N/A

If not, how does it impact on staff e.g. redundancies, pay grades, working conditions? Why are you confident that these staff changes will not affect the service that you provide?

N/A

Is a Customer Impact Assessment needed? **No.**