



## CABINET – 9 MARCH 2018

### MIDLANDS CONNECT – SUB-NATIONAL TRANSPORT BODY

#### REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT

#### PART A

##### Purpose of the Report

1. The purpose of this report is to advise the Cabinet of Midlands Connect's (MC) draft proposals to become a Sub-national Transport Body (STB) and to seek Cabinet's approval of the Authority's response to the proposals, with particular reference to the consultation on the proposed STB voting options and functions.

##### Recommendations

2. It is recommended that:
  - (a) Midlands Connect be advised that the Council agrees in principle to the draft proposed functions of the proposed Sub-national Transport Body, noting that precise detail will be subject to approval by all constituent members of Midlands Connect;
  - (b) Midlands Connect be advised that the Council's preferred voting option is Option i, voting weighted on a population base of one vote for every 200,000 people;
  - (c) Further clarity be sought from MC about its Scrutiny Committee proposal;
  - (d) The Director of Environment and Transport be authorised to respond to the Midlands Connect consultation on its draft Sub-national Transport Body proposal, taking recommendations (a), (b) and (c) into account;
  - (e) A further report be submitted to the Cabinet to ratify the finalised Sub-national Transport Body proposal, prior to submission to the Department for Transport.

##### Reason for Recommendations

3. To ensure that MC is aware of the County Council's views before it finalises its proposals to the Department for Transport to become an STB. In terms of voting, Option i provides fairer representation for constituent members. In principle the proposed functions of the STB are reasonable and sensible and will

add weight/benefit to MC's engagement with Government to secure transport investment to enable the Midlands Engine's future growth.

### **Timetable for Decisions (including Scrutiny)**

4. This report will be considered by the Scrutiny Commission on 7 March 2017 and its comments will be submitted to the Cabinet.
5. Each MC constituent authority will need to ratify the finalised Sub-national Transport Body proposals prior to submission to the Department for Transport (DfT), currently anticipated to be later in 2018 (but see paragraphs 52 and 53).

### **Policy Framework and Previous Decisions**

6. None.

### **Resource Implications**

7. MC allocated £70,000 in its 2017/18 programme to support the development of the STB. The ongoing financial management of this STB work will be undertaken in line with appropriate financial reporting and changes captured within MC's change control process.
8. If the STB receives Royal Assent constituent authorities will be required to make statutory contributions towards the costs of MC, subject to unanimous agreement by all MC members. MC has currently not specified the level of this contribution.
9. The apportionment of these contributions will be determined unanimously by MC members. MC would also be able to accept voluntary contributions to its costs from constituent authorities. Once MC is formally established as a STB an order should be made by the Treasury for it to claim relevant refunds of VAT.
10. The Director of Corporate Resources has been consulted on the content of this report.

### **Legal Implications**

11. The Cities and Local Government Devolution Act 2016 allows the Secretary of State for Transport to establish STB for any area outside of Greater London. STBs have devolved powers from central government, which allows them to develop and set transport strategy and important related matters.
12. The powers of each STB must be requested in a proposal to the Secretary of State, with the consent of all its constituent transport authorities, and then agreed in law (a statutory instrument is laid before Parliament before receiving Royal Assent).
13. The constitutional requirements for a STB are set out in section 102G of the Local Transport Act 2008. These include membership, voting mechanisms and executive arrangements.

14. MC is proposing to become a STB by spring 2020 and, if it received Royal Assent, it would be classed as a 'Local Authority' for the purpose of Section 101 of the Local Government Act 1972. This provides the flexibility to delegate the discharge of its functions to a committee, sub-committee, officer, or another Local Authority.
15. The creation of the STB is not intended to subsume, override or otherwise fetter any 'powers' of Leicestershire County Council as the Local Transport Authority.
16. The Director of Law and Governance has been consulted on the content of this report.

### **Circulation under the Local Issues Alert Procedure**

None

### **Officers to Contact**

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## PART B

### Background

17. The Midlands is one of the fastest growing and economically important areas within the UK. The region has enormous potential: over 11.5 million people; 14 cities, 20 world-class universities, two international airports, over 6 million jobs, and companies that export to 178 countries. Its economy is worth £220 billion to the UK.
18. While this vast potential remains undiminished, it also has the potential to be much more. One way to assist in unlocking this potential is to invest in a world-class transport system that connects the Midlands both within the region and externally to the rest of the UK and Europe.
19. Improving transport links to speed up journey times across the Midlands could secure an annual £1 billion boost to the region's economy, creating 300,000 additional jobs and saving businesses around £500 million.

### Midlands Connect and the Midlands Engine

20. MC was formed in 2014 to develop a transport blueprint to unlock economic growth across the region. It is not currently a statutory body nor does it have any powers. The MC Partnership is underpinned by two main principles:
  - Investing in the 'One Voice' approach to ensure the Midlands reaches a unified position on strategic transport investment.
  - An evidenced approach focused on clearly articulating the transport needs, opportunities and investment priorities in the region.
21. Membership includes:
  - 16 local authorities from across the East and West Midlands, including the West Midlands Combined Authority (see table at paragraph 43)
  - Local Enterprise Partnerships (LEPs)
  - Business community representatives
  - DfT, HS2 Ltd., Network Rail and Highways England
22. In November 2016, the Secretary of State for Transport, the Rt. Hon. Chris Grayling MP, cited Midlands Connect and Transport for the North as 'doing fantastic work, proving the benefits that come from local decision-making'.
23. On 23 January 2017, the Government published its Industrial Strategy Green Paper. This highlighted the added value of joined-up local governance:
 

*"We will continue to support better local decision-making structures for infrastructure planning, including the new mayoral combined authorities, and regional bodies like MC and Transport for the North. Strong and accountable place-based governance – with a clear business voice – will be critical to making the most of this additional investment."*

24. On 8 March 2017 the Chancellor of the Exchequer announced the Midlands Engine, which would aim to make the East and West Midlands an engine for growth for the UK economy, backed by business, local authorities and 11 LEPs. MC represents the strategic transport ‘arm’ of the Midlands Engine.
25. On 9 March 2017, the ‘Midlands Connect Strategy: Powering the Midlands Engine’ was published. MC is undertaking a number of studies to support the Midlands Engine, with the most relevant to Leicester and Leicestershire including:
- Leicester to Coventry direct rail link (LeNuCKLe)
  - Enhancement to Leicester to Birmingham rail connections
  - A46 Expressway
  - A5 Expressway
  - A42/M42 Expressway
  - Midlands Major Road Network (MRN)
  - HS2 Gateway.

MCs transport infrastructure proposals have the potential to unlock £500m in untapped economic potential and contribute to the wider government target of creating 300,000 new jobs over the next two decades.

26. MC is now consulting on proposals to become a statutory STB, as set out in the next section of this report.

#### Sub-National Transport Body (STB)

27. STBs are legal entities that are formal partners with government. They enable areas to come together and speak with one voice on strategic transport planning, in order to boost economic growth and development. Alongside Local Transport Authorities, STBs will play an important new role in shaping the investment strategies for national road and rail networks.
28. The Government’s Transport Investment Strategy (July 2017) highlights the added value that an STB can provide:
- “This unprecedented access to investment decision making is only possible as a result of STB’s unique role as the single voice for their region and the legitimacy that statutory status gives them to prioritise potential investments based on their regional transport strategies”.*

#### **Midlands Connect’s draft STB proposals**

29. MC is proposing to become a STB by spring 2020. Through MC, the leaders of the East and West Midlands will be able to identify the infrastructure priorities that the region wants and needs. The STB will have a duty to produce a regional transport strategy which will be essential in influencing the priorities of Highways England and Network Rail’s future investment programmes.
30. MC’s draft STB proposals are set out below. The finalised proposals will need to be ratified by each constituent authority prior to submission to the DfT.

31. The MC STB would be a 'Local Authority', able to delegate the discharge of its functions to a committee, sub-committee, officer or another Local Authority, with the exception of agreeing its budget and its transport strategy. As such, MC may establish a committee(s) to discharge any functions as are delegated to it.

### STB Membership

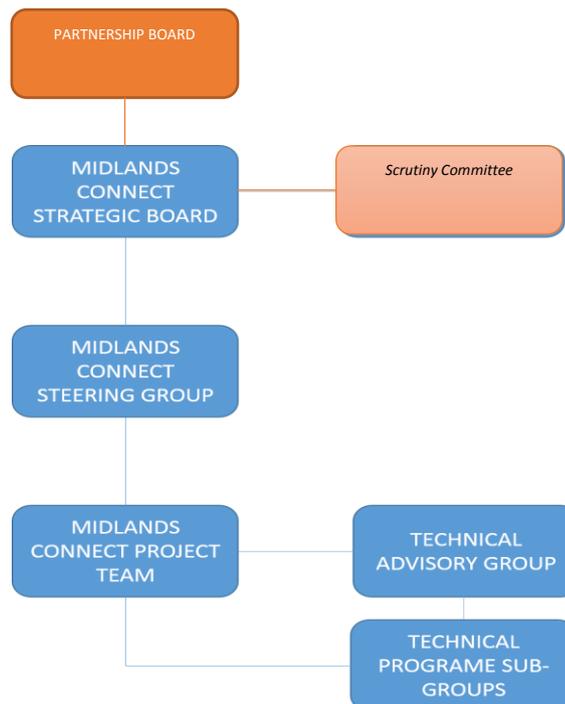
32. Only Local Transport Authorities (LTAs) can be full members of an STB. (There are 16 LTAs covered by MC, including the West Midlands Combined Authority - WMCA.) A Combined Authority, such as the WMCA, must represent its constituent members. An LTA can only be a full member of one STB (although it can be a non-voting member of neighbouring STBs).
33. Non-constituent members are a key part of MC's proposed governance structure. Co-opted (non-voting\*) Members include:
- DfT, Highways England, Network Rail, HS2 Ltd.
  - Local Enterprise Partnerships\*\*
  - West Midlands Combined Authority constituent members\*\*

\* Unless voting members of the STB resolve that they should be given voting rights.

\*\* Arrangements to be formalised through the MC constitution, to be agreed by STB members.

### Proposed Governance

34. The governance proposals for the STB are explained below. In effect the structure is not dissimilar to the current arrangements, with the exception of the Scrutiny Committee proposal, but bodies will be given more formal roles and powers reflective of MC becoming a statutory body (i.e. an STB).



35. The **Partnership Board (the full STB)** comprises all LTAs at elected member level. These will be voting members of the Board (see paragraphs 41 to 46 below, in respect of voting options). In addition, it is proposed that the Partnership Board will include co-opted (non-voting) members, including:
- a) An independent chair;
  - b) Representation from the DfT, Highways England, Network Rail, HS2 Ltd;
- Consideration would also be given to the inclusion of LEPs (which would include the Leicester and Leicestershire LEP) and representation from the individual authorities that form the West Midlands Combined Authority.
36. The **Strategic Board** comprises elected member representatives from the MC Partnership who are nominated from the wider Partnership Advisory Board on the following proposed basis:
- a. three West Midlands Local Transport Authority Leaders,
  - b. three East Midlands Local Transport Authority Leaders,
  - c. two West Midlands Local Enterprise Partnerships,
  - d. two East Midlands Local Enterprise Partnerships, and
  - e. various key partners of Midlands Connect
37. The **Steering Group** comprises officer representatives providing expertise and co-ordination to the Midlands Connect programme. The Steering Group will meet six times per year.
38. The **Technical Advisory Group** (and sub-groups) comprises officer representation from across the MC Partnership, including Local Transport Authorities, LEPs and other stakeholders
39. In addition, a **Scrutiny Committee** will be established. Legislation requires that a STB set out arrangements for the review and scrutiny of the discharge of functions. Each constituent authority will be entitled to appoint a member to the committee and it is proposed that each member will have a named 'substitute' who could attend in their absence. MC has not provided any details of the proposed scrutiny function at this stage, such as the mechanism for appointing members to the Scrutiny Committee or how the MC Committee might interact with scrutiny bodies of its constituent members. Further details of the MC scrutiny function should emerge as MC develops the STB's constitution. The constitution will need to be approved by all MC constituent members before it can be adopted and implemented.
40. Appointees to the Scrutiny Committee cannot be members, substitute members or co-opted members of MC, including at the Partnership Board or Strategic Board. They may include co-opted persons representative of non-constituent authorities and non-councillor representatives of passengers, road users, employers and employees.

### Voting Mechanism

41. It is expected that decisions of the Partnership Board will be normally made by consensus, which would ensure all members retain a valuable role, with the exception of the following decisions which would be subject to formal voting :

- i. The approval and revision of MC Transport Strategy
- ii. The approval of MC annual budget;
- iii. Any changes to MC constitution
- iv. Any matters referred to MC from the MC Strategic Board.

42. The two voting options are:

- i. Voting weighted on a population base of one vote for every 200,000 people\* (giving 50 votes in total) –MC's preferred option; or
- ii. With one vote, one authority, but with the West Midlands Combined Authority having seven votes to account for its constituent members (giving 22 votes in total).

\* A floor of one vote minimum for authorities, e.g. Rutland, with less than 200,000 population

43. The voting metrics for the MC constituent authorities are provided in the table below.

#### MIDLANDS CONNECT - VOTING METRICS

##### MIDLANDS CONNECT CONSTITUENT AUTHORITIES

Midlands Connect Constituent Authorities	Population*	% of Midlands Connect area Population	'Population Weighted – 200k'	'22 Local Authorities'
West Midlands Combined Authority	2,808,356	29.14	14	7
Staffordshire County Council	860,165	8.93	4	1
Nottinghamshire County Council	801,390	8.32	4	1
Derbyshire County Council	779,504	8.09	4	1
Lincolnshire County Council	731,516	7.59	4	1
Leicestershire County Council	667,905	6.93	3	1
Worcestershire County Council	575,421	5.97	3	1
Warwickshire County Council	551,594	5.72	3	1
Leicester City Council	337,653	3.50	2	1
Shropshire Council	310,121	3.26	2	1
Nottingham City Council	314,268	3.22	2	1
Derby City Council	252,463	2.62	7	1
Stoke on Trent City Council	251,027	2.61	1	1
Herefordshire Council	187,160	1.94	1	1
Telford and Wrekin Council	169,440	1.76	1	1
Rutland County Council	38,022	0.39	1	1
<b>Total votes</b>	<b>9,636,005</b>	<b>100</b>	<b>50</b>	<b>22</b>

\*population as per ONS 2014 Estimates

44. For either option:
- i. Decisions will require both a super-majority (consisting of two-thirds of the weighted vote to vote in favour of the decision) and a simple majority of the members appointed.
  - ii. No single authority would have a veto on decisions and at least nine members would need to vote in favour in either scenario.
45. Where proposals look at local transport functions, further safeguards would be set out to ensure any specific schemes require the consent of relevant LTA.
46. It is recommended that MC is advised that Option i. above (paragraph 42) is the County Council's preferred option, as it is considered that this provides fairer representation for constituent members.

#### Proposed Transport Functions

47. Any proposal can only include local transport functions that constituent members agree to. No functions are sought by the STB to the exclusion of local authorities. It is proposed that various transport functions should be exercisable by MC concurrently with the Local Authority or Passenger Transport Executive.
48. It is currently proposed that there will be five key STB transport functions:

#### **A. General core functions:**

- i. To prepare a Transport Strategy for the area.
- ii. To provide advice to the Secretary of State about the exercise of transport functions in relation to the area (whether exercisable by the Secretary of State or others) and to be a statutory consultee to the Secretary of State.
- iii. To co-ordinate the carrying out of transport functions in relation to the area that are exercisable by different constituent authorities, with a view to improving the effectiveness and efficiency in the carrying out of those functions or proposing to Secretary of State for transfer to STB if viewed as more effective.
- iv. To make other proposals to the Secretary of State about the role and functions of the STB; e.g. making recommendations to the Secretary of State on the Midlands MRN and its priority projects.

#### **B. Complementary functions:**

- i. To establish bespoke governance arrangements to support national investment programmes, such as the Road Investment Strategy (RIS):
  - information sharing and ability to submit advice to decision-making groups within DfT,
  - ensure MC provides a united voice within government and has direct engagement with key investment decisions that will ensure the best outcomes for the Midlands
  - not intended to limit abilities of individual LTAs to make representations to DfT.

- ii. To be statutory consultee regarding development of strategic/national rail development/investment documents:
  - work with DfT and support it by making informed recommendations to government
  - work with local authorities to ensure recommendations are complementary to any local representations
  - continue to support aspirations and activities of Transport for West Midlands and Transport for East Midlands and ensure strong working arrangements with both
- iii. To consider future opportunities for how MC can support Office of Rail and Road and Transport Focus:
  - monitoring performance of transport systems and effectiveness of investments

**C. Consistent roll-out of smart ticketing across the Midlands:**

- i. To act jointly with LTAs and Combined Authorities to create multi-modal ticketing schemes to cover any part of their areas, where requested or consented to.
- ii. To aim to work with DfT and HS2 Ltd. to ensure smart ticketing is enabled across all bus and rail options in the Midlands.
- iii. To have the capability to support local authorities, where they consent, to develop the procurement and delivery of any necessary digital infrastructure in their area, to ensure seamless travel with a smart ticket across the Midlands.

In respect of wider public transport functions, it is not proposed that the STB takes on any concessionary or operational functions of any constituent authority, therefore any relevant authority or operating company would be required to agree to the proposed delivery of any specific scheme.

**D. Use capital grants to develop and support the delivery of programmes with partners**

**E: Act as a statutory consultee for Rail Franchises in area**

- i. To work concurrently with LTA (function will not replace or infringe any existing powers of LTAs).
- ii. A memorandum of understanding will be developed with West Midlands Rail, and any future Passenger Transport Executives in the area, to ensure MC offer a supportive and complementary role in considering advice on franchising.
- iii. To work with LTAs to make proposals for the development and delivery of rail franchises which are wholly within the Midlands Connect Area.

49. Additionally, it is proposed that the STB will have ‘functional powers of competence’, which include miscellaneous functions to enable it to fulfil its role, e.g. in respect of staffing and pensions.
50. Officers are content that, in principle, these represent a reasonable and sensible range of functions that will add weight/benefit to MC’s engagement with Government to secure transport investment to enable the Midlands Engine’s future growth. MC intends to undertake further work to develop the detail of these functions and how they will be exercised in practice by the STB (including the development of a constitution for the STB); these will be subject to future approvals by MC members. This will provide opportunities to clarify the precise extent of functions, including in respect of any MC proposals for performance expectations for the MRN.
51. It is therefore recommended that the Authority responds to MC, advising that it agrees in principle to the proposed functions and noting that precise detail will be subject to approval by the MC constituent members.

### **MC Proposed Consultations**

52. On 15<sup>th</sup> February the MC Strategic Board were broadly supportive of the draft STB proposals. They also agreed that consultation on the proposals will be undertaken by MC on behalf of its constituent bodies (rather than each constituent body undertaking its own consultations). At the time of preparing this report, MC has yet to confirm the consultation timetable (a verbal update will be provided at the Cabinet meeting), but MC will use the formal consultation to engage with the following bodies:
- constituent members
  - West Midlands Combined Authority members
  - potential co-opted members
  - neighbouring authorities
  - sector and other ‘appropriate’ bodies or individuals.

### **Timeline and Next Steps**

53. The timeframe for the creation of the MC STB is shown in the table below:

<b>Topic</b>	<b>Date</b>
Consideration and agreement of preferred options, based on views of constituent bodies i.e. consultation responses	TBC (see para’ 52)
Midlands Connect ‘finalised’ proposals to Department for Transport (DfT)	TBC (see para’ 52)
Ratification of ‘finalised’ proposals by Midlands Connect constituent members	TBC (see para’ 52)
Submission of STB proposals to DfT(subject to the consent of its constituent bodies)	Autumn 2018 (subject to consultation timetable)

DfT consideration and Parliamentary process (leading to Royal Assent)	Autumn 2018, through to early 2020 <sup>(a)</sup>
Creation of Midlands Connect STB	Spring 2020 <sup>(a)</sup>

*(a) This is likely to be the earliest by which MC could become an STB. Actual timings will depend on a number of factors, including the consultations timetable; timeframe for DfT considerations of the STB proposal; drafting of the necessary Regulations; and availability of Parliamentary time.*

NB: Development of the STB's detailed constitution will be undertaken in parallel with aspects of this work.

### **Equality and Human Rights Implications**

54. As this is a MC initiative no Equality and Human Rights Impact Assessment (EHRIA) has been undertaken by the Authority. If appropriate, equality assessments will be undertaken by MC.

### **Background Papers**

None