
From: Dave Anderson
Sent: 23 July 2009 18:38
To: Tom Aitchison
Subject: FW: Latest draft of tram report
Attachments: FW: Numbers

Tom It is this kind of surprise that leads me to the view that we need to let Council have some realistic projections sooner rather than later. Regards. Dave

-----Original Message-----

From: Alan Coyle
Sent: 23 July 2009 08:56
To: Dave Anderson
Cc: Marshall Poulton; Andy Conway; Donald McGougan
Subject: RE: Latest draft of tram report

Dave

I think the points raised in your email make total sense. I would also like to bring your attention to further developments I learned of earlier in the week. There has been further delay to MUDFA with completion now programmed for November 9th, this has slipped from September over the last few weeks. The cost estimate is now between £6/£9m over budget and it seems likely tie will be heading for legal dispute with Carillion. The information on MUDFA seems to change continually and there are still concerns regarding the resources being deployed by Carillion to complete the job. I still await a response from tie on the issues I brought to your attention last week.

Regards

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[REDACTED]

-----Original Message-----

From: Dave Anderson
Sent: 23 July 2009 08:28
To: Gordon Mackenzie
Cc: Tom Aitchison; Marshall Poulton; Alan Coyle; Andy Conway; Jenny Dawe
Subject: RE: Latest draft of tram report

Gordon I accept your concerns about the potential risks of undermining tie's commercial position in negotiations and I also accept that the DRP process has not yet led to any risks crystallising. Your concerns on this are shared by David Mackay.

I guess the concern that those of us involved in drafting the report have is that given the current programme delays tie are now telling us that the budget envelope will be insufficient to deliver the programme even in the best case scenario. It is true that this is still based on an estimate rather than a robust review of the programme and timetable. However, I am now very anxious about the reliability of the information we are getting from tie. Since last November we have been pressing them to provide a detailed review of budget estimates and programme timetable. They have failed to do this and, in the past few months, their best case estimate has moved from £534m to £560m without adequate explanation.

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We do have an obligation to report to Council that there must now be concerns that it will not prove possible to deliver the programme within the budget. There is no doubt that, in any subsequent audit review, we will be asked when we became aware of this situation and what actions we took to mitigate the problems that will arise.

If we set out risks without quantifying them I suspect that we will be pressed to put a number on them.. We could perhaps deal with the scale of the risks by expressing them in percentage terms e.g. 5% - 10% over the original programme or using a range of indicative estimates.

However, I don't buy tie's view that by highlighting the facts we are giving the consortium a target to go for. The results of DRP will be what they will be and BSC will know what the original budget envelope is and where the programme timetable stands.

That said I am happy to be guided by you and colleagues on how best to present the facts objectively without creating unnecessary difficulties. I am about to head into the Council Management Team meeting but I'll give priority to reviewing the draft and your suggested changes later today. Regards. Dave

-----Original Message-----

From: Gordon Mackenzie

Sent: 22 July 2009 21:33

To: Dave Anderson

Cc: Tom Aitchison; Marshall Poulton; Alan Coyle; Andy Conway

Subject: RE: Latest draft of tram report

Dave,

thanks for the draft. I've had a quick look through it and made some suggestions (quite a lot!) about changes. I'll forward these to you separately. However it's probably better if I explain where I think we should be coming from on this before you look at the detail.

General

('Summary' and 'Programme and Costs' sections)

I don't think there should be a section on "Programme and Costs' I think it should be 'Programme and Risks'. I'm not yet ready to accept the justification for putting into the public domain information on cost estimates which are so heavily dependent on untested assumptions about risks. I am perfectly happy for the report to highlight the risks and bring into the public domain our determination (and the steps TIE are taking) to mitigate those through dispute resolution and the courts if necessary - and in that context make Council and the public aware that there is a risk costs will increase. I think we should talk to TIE about including in the report the fact that they have QC opinion to support their position.

However, unless we have greater certainty on the likelihood of losing on the issues we're about to take into dispute I think it would only be detrimental to our negotiating position with the consortium (who are likely to see it as a sign of weakness / willingness to accede to some of their demands) if we discuss how we might respond to losing.

In addition these issues would dominate public debate and divert management and political resource in both TIE and the Council into protracted debate about speculative costings rather than focusing on BSC's poor delivery and unjustified financial demands.

For avoidance of doubt, if any significant risks crystalize they must be reported but as of now I haven't seen sufficient justification for taking that view.

In general terms, I think it would be better to explain the risks in this report, explain what we are doing about it and then report the outcomes as they unfold in a follow up report(s).

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It follows that I'm also unhappy about getting into debating, in public, scenarios where we would seek to reduce the project or in other ways defray costs (para 3.9 onwards I think). Again I'm happy that that work should go ahead - indeed it's essential - but in a commercially confidential environment. For us to bring our contingency plans and strategies into the public domain would only serve the interests of BSC (and those who oppose the Tram project). In my view, there is a strong argument it would only increase the end cost. We must not let BSC have any idea of how far we could stretch the purse or cut our cloth - it will only harden their resolve to hold out against our legitimate request that they fulfil their contractual obligations.

Council Funding

I'm happy with having a section where we review the developer contribution and pleased you initiated this - I would change some of the wording but I haven't got as far as detailing what I mean, it's not a major difference of view.

Governance, TEL and TIE sections

Generally I'm happy to have these in the report - I haven't looked at them in detail as yet.

Other issues - Council Leader and other Group Leaders Having spoken briefly to the Council Leader late this afternoon I can confirm that she holds a very similar view to mine. I have given her a hard copy of the draft so that she can read it for herself but I informally discussed these issues with her a few weeks ago and she was of a similar view then. The Labour and Conservative leaders were recently given a briefing by Dave MacKay which steered away from costs (though I've every confidence they would have know the numbers from their representatives on the TIE Board). The feedback I had was that they were comfortable with this approach. I understand Cllr Cardownie took a different view but as I said above I do not think that putting our contingencies or strategies (or agonisings!) into the public domain - where they would be seen by BSC - would do anything other than harm the public purse.

I hope you appreciate that I'm perfectly happy for you to challenge anything I've said in these comments. I'm sure you'll tell me if / when you think I'm wrong and look forward to a further exchange of views (possibly when we meet on Monday?).

Regards

Gordon

-----Original Message-----

From: Dave Anderson

Sent: Wed 7/22/2009 1:55 PM

To: Gordon Mackenzie

Cc: Tom Aitchison; Marshall Poulton; Alan Coyle; Andy Conway

Subject: Latest draft of tram report

Gordon As promised, please find attached the latest edited version of the tram report to August Council. This remains work in progress and further details will be added when these are received from Steven Bell and colleagues at tie. David Mackay has already signalled his concerns about tie being commercially compromised if too much financial data is placed in the public domain; this will clearly require us to make a judgment call about the balance between the need to keep Council properly informed about progress and key issues, whilst managing the release of any commercial information in the report with sensitivity and discretion. Dave

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CEC0066481_0003

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