



**EDINBURGH TRAM
Highlight Report to the
Chief Executive's
Internal Planning Group
30 September 2009**





1 Background

This 'highlight report' is an update to the Chief Executive’s Internal Planning Group (IPG) on the Edinburgh Tram Project to inform on the progress on this project and any decisions required.

A version of this report (with commercially sensitive and confidential material removed) is also to be circulated within the Council as a means of communicating progress with the Tram project.

2 Executive Summary

2.1 Matters Arising

Council Reports to the Council Committee’s

A summary of the reports presented is provided, which includes the strategy for the tram Traffic Regulation Orders, when buses will be returned to Princes Street, and tram governance matters.

Evaluation of Financial Contingency Measures and Strategic Options

An update is provided the financial contingency measures, plus identification of Council financial pressures that have arose from the implementation of the tram.

Tram Monitoring Officer Update

An update on the Dispute Resolution Process (DRP) and a summary of DRPs is provided.

Communications Update

An update is provided on the ongoing *Open for Business* initiative, particularly in relation to the upcoming Winter Festival, and on related issues including the Leith Newsletter, EHLiving and Transformers.

Tram Legal Agreement with Forth Ports

The legal agreement between the Council and Forth Ports remains unresolved with no agreement being reached on the detailed terms of the agreement.

Winter Festival Events

An internal group is to be set up to review operational matters related to the Winter Festivals.

Statutory Council Approvals and Consents

As the detailed design continues, there are several statutory consents that the Council must provide. These include Planning Prior Approvals, Building Warrants, Roads and Structures Technical Approvals.



Building Fixings

Good progress has been made with the court action for the building fixings. The first hearing is anticipated to be on 9 October.

Land Acquisition and CAADs

To note that applications for Certificate(s) of Appropriate Alternative Development (CAAD) are expected from a number of land owners and it will require close co-operation between Planning, Corporate Property and Legal Services in dealing with them.

2.2 Matters to Note or for a Decision

- To note the tram related Council Reports.
- To note the update on the financial contingency measures and developers contributions **and to determine what action is taken on the additional financial pressures.**
- To note the Tram Monitoring Officers update on DRP.
- To note the communications update.
- To note the position with regard to the legal agreement with Forth Ports (FP) and it is recommended that a further meeting is held at a Directorate level with FP to resolve this.
- To note the planning ongoing for the Winter Festival Events.
- To note the progress with the Statutory Approvals and consents.
- To note the good progress with building fixings and that the first court appearance will be in early October.
- To note the position regarding land acquisition and CAAD applications.

3 Council Reports (Presented by Dave Anderson/Jim Inch)

Transport, Infrastructure and Environment Committee on 22 September

A report was presented that details the proposed strategy of the promotion of the tram Traffic Regulation Orders and comprises:

- A three stage strategy which will implement the essential tram TROs as quickly as possible followed by two further stages what deal with the concerns and objections received.
- Consultation will commence with emergency services on 12 October. In the interests of openness, the drawings will be available to the public from this date.

The report was approved.

Policy & Strategy Committee on 29 September

Two reports were presented that dealt with the decision when to return buses to Princes Street and changes to the Tram Governance and approval by committee of the Memorandum of Understanding and the revised TEL Operating Agreement. Once approved the transfer of **tie ltd** shares can be implemented.



4 Evaluation of Financial Contingency Measures & Strategic Options (Presented by Donald McGougan)

A request has been formally made to **tie Ltd** to review the strategic options paper. **tie's** response will be reported to the group when it is received.

Transport Scotland has now been made aware at the highest level of the options the Council are considering for contingency planning purposes.

The current thinking on contingency planning is that in the absence of a revised estimated outturn cost, contingency planning will take place around hypothetical assumptions of 5% and 10% on the current funding level. The Council will also have to plan around the risks in the S75 contribution from Forth Ports and the assumption this contribution may not come to fruition.

Any view on a potential overspend on the £545m funding envelope will need to be informed by results from the Dispute Resolution Procedures and other contractual processes that **tie Ltd** are now putting in place.

Through the Prudential Framework a notional contribution from the TEL Business Plan to the Council of £2.3m p.a. over 20 years would allow Council borrowing (and a further contribution to the project) of around £28m. Taxation considerations may allow more benefit to be gained from such an arrangement. This could cover a 5% threshold. Further borrowing would incur costs of a similar nature which would push out other opportunities from future years Council Revenue or Capital Expenditure plans.

More work is required as the contractual process develops and more security is realised on the estimated cost.

Council's £45m Contribution

This section updates the group on the Council's funding for its £45m contribution to Phase 1a of the tram project. A review of the Council's funding strategy; specifically in relation to developers contributions will take place on a six monthly basis. This review will be conducted in-house using existing resources from Finance and City Development. The position is unchanged from the previous report and is:

CEC Contribution Breakdown	Planned Contribution	Achieved Contribution
Council Cash	£2.5m	£2.5m
Council Land	£6.2m	£6.2m
Developer Contributions – Cash	£25.4m	£3.2m
Developer Contributions – Land	£1.2m	£1.2m
Capital Receipts (Development Gains)	£2.8m	£0.0m
Capital Receipts	£6.9m	£2.0m
TOTAL	£45.0m	£15.1m



Breakdown of Phase 1a Contributions	
Tram Cash	Value (£)
Amount received	£3.20
Amount in concluded legal agreements (where development has commenced)	£1.62
Amount in concluded legal agreements (where dev't has not commenced)	£3.54
Minded to grant/Pending Consideration	£7.70
Potential Total	£16.06

Council Financial Pressures

A number of third party funded projects are flowing through the tram project. These projects range from agreements such as Forth Ports and the RBS tram stop, which are funded by the third party, to miscellaneous items of design that the Council has requested. These design elements are out of scope of tram design and are now payable by the Council. The range of third party items is listed below.

Code	Description	AFC 3rd Party Forecast £'s
3P1	Murrayfield pitch relocation (Tram funding, £208,726)	2,586,001
3P16	Gogar Intermodal station	880,000
Recoverable from 3rd Party - Forth Ports		
3P8	Forth Ports - Bypass Rd	400,000
3P11	Forth Ports - Lindsay Road	1,750,000
3P12	Forth Ports - Ocean terminal (entrance modification)	350,000
3P13	Forth Ports - Tower Pl & Victoria dock (bridge footways)	150,000
Recoverable from 3rd Party - RBS		
3P15	RBS - (SDS Design / Fencing Costs)	400,000
CEC - Additional CEC Budget (add'l to Tram £45m)		
3P2	CEC - Picardy Place (TSS Costs)	65,741
3P3	CEC - West Pilton tramstop	70,384
3P4	CEC - Telford Road access	21,468
3P5	CEC - West End Tramstop review	16,637
3P10	CEC - One-off Projects (see below)	271,328
	Total	6,961,558



3P10	CEC - One-off Projects	
	D&W Buildings fixings contribution	50,000
	Open for Business Contribution	30,000
	Brass Pigeons	650
	Leith Walk depot - chimney stack	12,448
	Traffic Calming – Haymarket	80,000
	Mound Traffic Lights	75,230
	Fastlink patching	23,000
		271,328

It should be noted that the highlighted items have no current funding and will become a pressure on the Council budget.

It is recommended that the IPG decide how best to proceed with the additional costs.

5 Tram Monitoring Officer (TMO) Update (Presented by Marshall Poulton)

The table below provides a summary of the Dispute Resolution Process (DRP).

The approximate value of each DRP is noted below (though it should be noted that the value of a DRP principle may significantly differ from the value of the DRP dispute itself). **tie ltd** are also working on documentation to calculate the maximum period which each dispute could take (excluding any litigation). However, early indications are that we will not have a clear picture of estimated final costs and timescales for some time, perhaps not until well into 2010. This obviously means timing of reporting back to Council with a revised position will be uncertain, but reflects the realities of the dispute. Monthly briefings have been set up with the group leaders and are proving valuable in keeping members informed. In order to keep construction of the project running, numerous disputes may need to be formally initiated in order to allow **tie ltd** to engage the terms of the contract which allow them to force Infraco to mobilise despite there being disputed issues.



BSC Dispute Summary

Case Number	DRP Item	Status (*)	Summary Description	tie ltd view (£k)	BSC view (£k)	Delta (£k)	Notes
4	3	O	Hilton Car Park		48.7	48.7	Moved directly to adjudication on 14 Sept
5	4	O	True and proper valuation of tie change order 1 in connection with change from v26 to v31 of the programme	1,823.1	6,987.6	5,164.5	The £6.98m is made up of 3 sections. BB £3,190,422, Siemens £3,298,375, CAF €558,679 (approx sterling 558,679/1.12) £498,820 Moved to mediation on 14 September
6a	5a	O	Gogarburn Bridge		313.1	313.1	Chief Executives meeting took place on 21 Sept.
6b	5b	O	Carricknowe Bridge	71.8	339.0	67.3	Chief Executives meeting took place on 21 Sept.
6c	5c	P	Russell Road retaining wall	701.5	4,597.8	3,896.4	BSC view, Temp works £1.156m, Perm works £1.565, Perm work (contaminated material) £1.876m Draft documents still under consideration by tie, but BSC have also launched a related counter-dispute
20	11	P	What comprises BDDI for the purposes of the Infraco Contract	20,000.0	30,000.0	10,000.0	These are approximate figures. The c£20m constitutes tie's view of what the starting figure is for the BDDI to IFC dispute.
14	8	P	Misalignment between Infraco Proposals and SDS Design				Further details will be provided at FCL on 14 Sept.
21			Delays arising from MUDFA programme Rev 8				tie working on tactical response. MUDFA delay cannot be looked at in isolation due to the number of connected issues relating to delay overall. Essentially should be included in the round relating to EOT2 dispute.
		I	Russell Road retaining wall Notified departure				
				22,596.4	42,286.3	19,689.9	

* O = Ongoing, P = Proposed, I = Incoming



6 Communications Update (Presented by Isobel Reid)

Princes Street signage

Following consultation with local traders in the Princes Street area signage is being cleared from the west end of Princes Street now that the main track works are progressing further towards the mid- to east end.

Two new signs have been designed to be placed at the Princes Street junctions with Hanover Street and Frederick Street advertising the businesses on these two streets. These signs will be installed next week. This was welcomed by the retailers in these areas.

In addition, *Open for Business* signage was designed and produced for Frederick Street, Murrayfield and the Conan Doyle bar and banners were made for the Edinburgh Festival firework display.

Winter Festival

A Marketing and PR working group has been set up comprising professionals from DEMA, City of Edinburgh Council, *tie Ltd*, Open for Business and retailers in the City Centre.

The group are currently working on a promotion of '*Edinburgh Sparkles*', a UK wide winter marketing campaign. The key messages of this campaign include:

- Promotion of Edinburgh as a must-see, magical shopping destination
- A unique shopping experience not to be missed at Christmas time
- Easy to navigate with lots to see and do – perfect for shoppers who also want to enjoy themselves.

Confirmation on the size and scope of the campaign is still to be agreed.

The City of Edinburgh Council is working together with '*She's Gott It*' and '*Unique Events*' to ensure the promotion of both Edinburgh's Christmas and Edinburgh's Hogmanay. Details are being finalised.

Tram Information Boards

One side of all the Tram Information Boards currently on street across the city has been changed to a new design as they included the strapline '*Taking you to the shops/work in 2011*'.



Open for Business

Winter / Christmas activity & DEMA

- OFB has continued to work in collaboration with DEMA on the Xmas and Winter plan. The updated proposal was presented at the Winter Marketing Campaign meeting on Tuesday.
- Burt Greener has been obtaining costs for a radio advertising campaign to run alongside the activity.
- Burt Greener will be emailing out to retailers asking for them to notify them about special events around the official start of Edinburgh's Christmas on 26 November.

Leith newsletter - The first newsletter has been produced and is currently being distributed in the Leith area.

EHliving - The proof for the Autumn/Winter 09 issue of EHliving has been circulated to the OFB group. Feedback will be collated next week so that the magazine can go to print in a week's time. The magazine will be inserted into the Edinburgh Evening News and distributed widely throughout Edinburgh and the Lothians from the start of October.

Removal of the Paolozzi Sculptures, Picardy Place

The sculptures will shortly need to be removed in readiness for the Tram Infraco works. Although they do not lie within the direct path of the Tram infrastructure, the landscaped area to the front of the Cathedral will be removed to allow for major changes to be made to the Picardy Place road junction.

A new area of public realm will be created within the centre of Picardy Place. The layout of this area is still to be finalised as this relates to future development proposals which are now being considered for the wider site.

tie's contractors are currently estimating October/November for the removal, subject to agreement of a finalised Method Statement with CEC Planning.

Local Councillors were briefed on Wednesday 16th September on the proposed removal of the Paolozzi sculptures.

Schools Programme

Tramformers (Junior Tram Construction Advisors) - Communications staff from CEC and **tie Ltd** have been visiting schools since the start back of term to introduce the Tramformer scheme and to discuss with the P6 pupils how they can get involved.. Presentations have been conducted at 17 primary schools in Edinburgh

The aim of the Tramformer programme is to involve primary schools in the work of the tram project in a practical and fun way. Each participating school selects two pupils from P6 to be





a Tramformer for the year. Tramformers will learn about the tram project and will be encouraged to discuss the project with their fellow pupils.

The schools programme team has also been involved in running workshops in conjunction with Scottish Businesses for Communities. The pilot programme ran at Craigroyston High School this month, 8 workshops were run to a total of 80 Primary 7 pupils.

7 Tram Legal Agreement with Forth Ports (Presented by Andy Conway)

The Council have not yet managed to agree the revised legal agreement with Port Ports (FP) and this is impacting construction progress. The Director’s of City Development and Finance met with Charles Hammond from FP on the week commencing 14 September, but limited progress has been made.

It is recommended that a further meeting is held at a Directorate level with FP to resolve this.

8 Winter Festival Events (Presented by Dave Anderson)

Following the success of the internal summer festival mitigation group, which was made up of staff from a variety of Council sections, it is proposed that a similar group be established to review the operational matters related to the Winter Festival events.

9 Statutory Council Approvals and Consents (Presented by Andy Conway)

The table below provides an updated summary position on all the necessary approvals required from the Council for the tram project. A further detailed breakdown is attached as Appendix 1.

CEC Statutory Council Approvals and Consents	Total Number of Submissions	Total number of Approvals	% Complete
Prior Approval	64	61	95%
Full Planning Permission	10	7	70%
Listed Building Consent	11	11	100%
Scheduled Monument Consent	1	1	100%
Building Warrant	18	15	83%
Technical Approvals (including Structures, Roads and Drainage)	126	105	83%
Total	230	200	87%

An approvals tracker that identifies each of the approvals and their status has been developed. An extract from that tracker is also included as Appendix 2. The status of the approvals relates to the Issue for Construction drawings which is on the critical path for the project construction. However, there remains many ‘conditioned matters’ that need to be closed out. A programme is awaited from **tie ltd**.



10 Building Fixings (Presented by Colin Mackenzie)

Court action has commenced against nine of the owners along the route. The Sheriff has granted a warrant to the Council to serve a Summary Application (writ) on each of these owners. Instructions were given to Sheriff Officers on 10 September to serve these papers on the owners. In each of these cases the first hearing is scheduled before the Sheriff on 9 October. At that hearing the Sheriff will determine further proceedings depending on the approach taken by each of the owners.

Of the remaining cases which required Court action, one owner has intimated she will now grant consent. Discussions are ongoing with solicitors/ factors for another three owners. Failure to secure consent within the next week will result in Summary Applications being raised against these owners. An amended plan has been received from tie in respect of the building at the corner of York Place and Dublin Street which will allow the Summary Applications (four owners) to be finalised and lodged with the Sheriff Clerk immediately.

11 Certificate of Appropriate Alternative Development (CAAD) (Presented by Marshall Poulton)

CAAD applications are expected as part of the negotiation of compensation claims for the tram project; a single application at Haymarket Yards, several at the Airport and CALA's existing application for Ocean Drive.

These applications are relatively rare, and are governed not by planning law but compensation law.

Liaison has progressed between Planning, Corporate Property and Legal Services to assist planning department officers to become familiar with all aspects of the CAAD process and its application to compensation.

The purpose of a CAAD is to inform the compensation process by assisting the valuers set the basis of valuation. The decision has to be considered against the background of a hypothetical "no scheme" world and there are a number of cases which inform what that world consists of.

Following a CAAD decision a valuation may still be in dispute and the case can be referred to the Lands Tribunal, where the CAAD is likely to form part of the valuation dispute and our Planners would provide expert witness to support the Council's case.

Each CAAD can have a significant financial impact. They are normally utilised where development value is thought to be possible by the claimant. This often leads to a wide margin of value between the valuations of the Acquiring Authority and the Claimant.

The District Valuer's estimates are based on planning advice obtained from the planning department and form the basis of the *tie* budget for land compensation.

We have only one compensation claim actually lodged for lands which might be affected by a CAAD, NIL's lands close to the Airport, where the DV's estimate was based on around £100,000 per acre, but the claim is based on 5 times that, a total of £11.5m. This is indicative of the effect positive CAADs might have on the budget and leads to a worse case estimate of an additional budget requirement of £25m.





As these CAAD's may lead to both court action and budget pressure further updates will be prepared to monitor progress.

List of Appendices:

- 1 Statutory Council Approvals – Tables 1 and 2
- 2 Statutory Council Approvals – Tracker



Statutory Council Approvals Summary Table

CEC Statutory Council Approvals and Consents	Total Number of Submissions	Total number of Approvals	% Complete
Prior Approval	64	61	95%
Full Planning Permission	10	7	70%
Listed Building Consent	11	11	100%
Scheduled Monument Consent	1	1	100%
Building Warrant	18	15	83%
Technical Approvals (including Structures, Roads and Drainage)	126	105	83%
Total	230	200	87%

Table 1 - Planning and Building Warrant Approvals

CURRENT STATUS	Sub Totals	Prior Approval	Full Planning Permission	Listed Building Consent	Scheduled Monument Consent	Building Warrant
Informal consultation not started	5	3	1	0	0	1
Informal consultation started	3	0	1	0	0	1
Application submitted	2	0	1	0	0	1
Approval granted	95	61	7	11	1	15
GRAND TOTAL and Sub Totals	105	64	10	11	1	18
% Complete	90%	95%	70%	100%	100%	83%

Table 2 - Roads & Structures Technical Approvals

CURRENT STATUS	Sub Totals	CEC Technical Approval	*Network Rail Form A	*SW Drainage Outfall Consent	*SNH	*BAA Approval	Roads Construction Consent
TA delayed due to recent change	0	0	0	0	0	0	0
Issued for informal consultation	0	0	0	0	0	0	0
Issued for Technical Approval	15	9	1	4	0	0	1
Technical Approval Granted	105	83	11	10	1	0	0
Not Yet Due	6	5	0	0	0	1	1
Delay	0	0	0	0	0	0	0
GRAND TOTAL and Sub Totals	126	97	12	14	1	1	1
% Complete	83%	86%	92%	71%	100%	0%	0%

* These consents are not CEC's responsibility, but for completeness they have been included as they are required to allow construction to commence.



APPENDIX 2

Prior Approvals Status					Approved by CEC	IFC	
Section	Batch	CEC Delay	SDS/ TIE/ BSC Delay	Activity ID	Current forecast (live)	v31	Notes
1	1/02a			Ocean Terminal Bypass Road	TBC		Forth Ports have until 03/08 to make a response. A decision is expected w/c 10/08.
5A	5/05c			29 Roseburn Street – JB McLean (Building Warrant)			Pending Consideration. BSC to provide information to SDS. Target date TBC
5A	5/06			Murrayfield Stadium Tramstop and Retaining Wall	01/08/2008	27/06/2008	SDS resubmitted revised drawings 11/05/09. CEC issued letter 28/05/09. SDS to respond 12/06/09
5A	5/07a			Murrayfield Accommodation Works – Full PP	17/10/2008	?	SDS has received change order and is progressing application.
	5/23			Redesign of Retaining Wall/Roseburn Street Bridge			Application on hold. tie to provide 'as built' details
5C	5/30			Tram Stop Gogarburn	11/09/2008	11/09/2008	Awaiting concept design comments from tie.
7	7/29a			Airport Kiosk – Full PP			Following meeting 15/08 change is on hold. tie to confirm final scope of works
	7/29b			Airport Kiosk – Building Warrant			SDS to confirm with CEC scope of Building Warrant

Technical Approvals Status - Structures

					Approved by CEC	IFC	
Section		CEC Delay	SDS/TIE/BSC Delay	Activity ID	Current forecast (live)	v31	Notes
5A				S22B Balgreen Road NR Access Bridge	?	16/01/2009	SDS has responded to NR concerns. NR is re-evaluating its points following clarification and will provide a response. Potential meeting required dependent on NR response.

Technical Approvals Status - Roads & Drainage

					Approved by CEC	IFC	
Section		CEC Delay	SDS/TIE/BSC Delay	Activity ID	Current forecast (live)	v31	Notes
1A3	Roads & Drainage				28/08/2009	21/01/2009	TA ongoing
1C1	Roads & Drainage						On hold awaiting drainage design/revised RSA
2A	Roads & Drainage				14/09/2009	?	Revised Haymarket tramstop design required
3A	Roads & Drainage				31/10/09	?	Progressing application in with accordance priority list
3B	Roads & Drainage				31/10/09	?	Progressing application in with accordance priority list
3C	Roads & Drainage				31/10/09	?	Progressing application in with accordance priority list