

EDINBURGH TRAM – MEETING WITH CITY OF EDINBURGH COUNCIL

Purpose

1. To provide briefing for Mr Swinney's and Mr Neil's meeting on 21 June with Sue Bruce to discuss the tram project.

Priority

2. **Urgent.**

Background

3. Mr Swinney and Mr Neil have agreed to meet Sue Bruce, Chief Executive, Edinburgh City Council (CEC) at 14.45 in St Andrews House Tuesday 21 June 2011. Sue Bruce will be accompanied by Donald McGougan, Director of Finance. David Middleton and I will also attend.

4. The briefing attached at Annex A is a summary of the latest position on various aspects of the project. I have also attached separately a copy of the presentation slides that CEC intend to use at the meeting. As well as updating Ministers on progress on resolving the contractual dispute, Sue Bruce will wish to discuss options for raising the additional funding CEC will require in order to complete the project to St Andrew's Square.

Conclusion

5. That Ministers note the attached briefing.

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17 June 2011

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Minister for Housing and Transport					

Permanent Secretary
 DG Enterprise & Environment
 PS/Transport Scotland
 David Middleton, TS Chief Executive
 Raymund Johnstone, TS MTRIPS
 Gordon Wales, FPMDP: Finance
 Sharon Fairweather, TS Finance
 Frances Duffy, TS Rail Directorate
 John Ramsay, TS MTRIPS
 Stephen Gethins, Special Adviser
 Lucy Adamson, TS Communications
 Campbell Docherty, TS Communications

ANNEX A

Edinburgh Tram – briefing for meeting with CEC on 21 June 2011

Mediation exercise

1. The outcome of the mediation exercise which was held in early March resulted in CEC and the tram contractor BSC agreeing outline principles and heads of terms for resolving the contractual disputes which had effectively brought the project to standstill. The agreement that was reached will reduce the scope of the current contract to the completion of the tram between the Airport and St Andrew's Square. The total cost of the project is expected rise to between £720m to £750m – some £200m more than the current budget of £545m. Despite this significant increase CEC have assessed it as being more cost effective to continue with the current contract than to terminate it and let a new contract to complete the outstanding works.

2. The terms of the agreement have been structured in order to allow a partial resumption of "Priority Works" between Gogar and the City centre to get underway over the summer months while the terms of the final agreements are concluded and the additional funding package is put in place. The cost of this work can be accommodated within the existing £545m funding envelope, and is expected to lead to further drawdown of grant support from Scottish Government of around £50m to end of August. The go ahead for this first stage in the resumption of the tram works was approved at a full Council meeting on 16 May.

3. Total project spend to date is £431m of which the Scottish Government contribution is £395m (£105m of grant remains unspent), however, CEC has just invoiced Transport Scotland for a further £38m covering our share of CEC's substantial re-mobilisation costs of the Priority Works outlined above. We have extended the grant arrangements until 31 August to continue support while the Council resolves the contractual issues.

4.. The deadline for the additional funding package to be in place to allow the deal to go through is 1 September. CEC have confirmed that they have identified funding provision of up to £600m including the Scottish Government's £500m grant support. That leaves CEC with a funding gap of £140m. If CEC cannot secure that funding then the expectation is that the contract will be terminated by mutual agreement and subject to a final settlement of any outstanding contractual claims.

5. CEC officials are currently working to provide the Council with a full report on increased costs and funding in order to seek final approval to complete the tram. While this is intended for 30 June, CEC now advise that they may not have all the required information in place to provide the Council with a comprehensive progress report and may have to revert to the next available Council meeting, currently scheduled for 25 August. We also expect that officials will be asked to provide detailed estimates of the proposals including the estimate of cancelling the project. We have still to see these estimates.

Future governance and project management arrangements

6. CEC have already started to implement changes to the governance of the project. CEC will take a more direct role in the management of the contract. TIE will be re-structured. The resignations of the Chief Executive together with the Communications Director and the 4 non executive members of the TIE Board have already been announced. CEC have also announced a voluntary redundancy programme for all TIE staff which is aimed at reducing staffing numbers by 50 percent. Further consideration is also being given to whether or not the TIE brand should be retained.

7. The role of Transport Scotland in the governance of the project going forward will also need to be decided. The recent Audit Scotland report on the project called for Transport Scotland to take a more direct involvement. Our line to date has been that with the mediation work still ongoing that this is not the time to be considering changes to the governance. However, with the recent announcements on TIE we can expect to come under pressure soon as to where Transport Scotland sits. Sue Bruce is proposing to set up a new high level monitoring group to oversee the contract and there is an expectation that Transport Scotland would have representation on group. CEC are likely to consult us on those proposals shortly and we will provide more detailed advice to Ministers in due course.

Private Funding to Complete Project beyond St Andrews Square:

8. There have been recent media reports suggesting that the Council are considering proposals to involve private finance to complete the tram project from St Andrew Square to Newhaven. Our understanding is that any contracts to extend the tram route beyond St Andrew Square would follow after the current contract with Bilfinger Berger/Siemens is complete. Any changes to the funding and operating arrangements to enable the delivery of the full tram route would require the City of Edinburgh Council to establish the business case, value for money and funding to pursue such an option in the future.

Edinburgh Gateway

9. As part of the ongoing negotiations with the contractor on the revised terms for completing the tram we have asked CEC to consider alterations at Gogar to allow the tram to connect with the proposed new Edinburgh Gateway railway station. This will involve a re-design of the tram track alignment and fairly significant additional engineering works. The contractor is currently pricing this up. Our estimate is around £15m but the cost of these works was not included in the original funding commitment of £500m so CEC would expect us to meet any additional cost. It would be more difficult and costly to do these works after the tram was in place but we will need to wait until we have the contractor's price before we can assess whether or not it represents value for money to proceed with them as part of the tram contract.

National concessionary travel scheme

10. The Scottish Government's position on whether or not to extend concessionary travel to the tram network was set out in the review of the National Concessionary Travel Scheme in May 2009. That made it clear that a decision would not be made until nearer to the project's conclusion.

11. The National Concessionary Travel Scheme is currently underpinned by 2 Scottish Statutory Instruments. The most relevant of these, The National Bus Travel Concession Scheme for Older and Disabled Persons (Eligible Persons and Eligible Services) (Scotland) Order 2006 (SSI 117/2006), defines an eligible service for the purposes of the Scheme. This does not currently include Tram networks and as such we believe in terms of legislation any decision to extend the scheme to include another mode of transport would require the approval of the Scottish Parliament. In taking that legislation forward the question of whether any scheme should also be extended to the Glasgow subway is likely to arise.

Leasing of surplus trams

12. A total of 27 tram vehicles are being provided as part of the contract which is the number required to run a service to Newhaven as was originally planned. With little prospect now of the tram extending beyond St Andrew's Square for the foreseeable future, CEC have recently submitted a bid to supply 6 tram vehicles to Transport for London on either a 10 years lease or alternatively as a straight sale. If successful the lease option would provide an income of around £10m over 10 years, while the sale option would provide £15m this year.

13. Under the terms of the grant arrangements, CEC must seek Ministers approval before concluding any contract to lease or sell the trams. While we are aware of their proposals they have so far made no formal application for Ministers approval but we would expect that to be made shortly as the decision has to be made by 21 July. CEC are working on the assumption that they will be able to retain 100% of any sale or lease receipts to re-invest in the project.