

From: Ainslie McLaughlin  
Director: MTRIPS  
Transport Scotland  
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Cabinet Secretary for Finance, Employment and Sustainable Growth  
Cabinet Secretary for Infrastructure and Capital Investment  
Minister for Housing and Transport

## **EDINBURGH TRAM**

### **Purpose**

1. Further to the telephone conference call with Mr Swinney and Mr Brown on 31 August, Ministers requested advice on how the Scottish Government through Transport Scotland might take a more direct involvement in the tram project in order to provide a higher degree of confidence in its delivery.

### **Priority**

2. **Immediate.** The Extraordinary General Meeting of City of Edinburgh Council is being held today and is expected to overturn last week's vote to only take the tram to Haymarket in favour of the St Andrew's Square option. We would expect Ministers to come under almost immediate pressure to confirm that they will re-instate the remaining £72 million in grant funding.

### **Options for intervention**

3. In considering any options for intervention we need to recognise the significant strides that the new management team under Sue Bruce have achieved over the past few months. Following the mediation in March a huge amount of detailed contract negotiations have taken place and the contractor and the Council are now poised to sign a settlement agreement which both sides are confident will allow work to be completed and avoid further damaging and disruptive contractual disputes. Key in this has been the engagement of the top management of not just the Council but also the contractors' who are now keenly aware that their corporate reputations are at stake.

4. The project is now better placed than it has been in over 18 months and we would need to ensure that any intervention enhanced its chances of success and did not involve further disruption. A take-over of the project where Transport Scotland became the client, as was done on Borders Rail and GARL, would introduce further complexity and delay and at this late stage in the tram project would very likely lead to the contractor walking away. For those reasons alone we would not recommend that Scottish Ministers assume the role of client for the trams, that should remain with the Council.

5. In looking at a revised governance structure for the tram which would give Transport Scotland a greater say in the running of the project but leave the Council as client it would be essential to work in partnership. In our experience in delivering major

infrastructure schemes within cities, such as the M74 and AWPR, it is crucial to have the support and cooperation of the Council. Transport Scotland has already established good working relationships with Sue Bruce and her team and we have provided support and advice during the mediation. The Council has made it clear that it would welcome greater involvement of Transport Scotland in the project's governance going forward so we would expect them to be open to discussing how that would be structured.

6. A possible solution might be a variation of the arrangements we put in place for M74 and AWPR. On both of those projects Scottish Ministers were principal funder, as on the tram. While unlike the tram, Ministers promoted M74 and AWPR and are ultimate owners, the Councils were the clients for the various contracts. Transport Scotland exercised control of those projects through agreed protocols and our teams provided direction and day to day management. If Ministers wished us to take a greater role in tram then we would recommend a structure modelled on this approach as being more likely to be put in place quickly with least disruption to the existing management of the project. It is more likely to deliver the "joined at the hip" approach that Mr Swinney has in mind and could be seen by the Council as supportive rather than a take-over. That would be crucial as tension within the project management chain would ultimately be divisive.

7. We have only taken preliminary legal advice on the implications of going down this route and if Ministers wished us to pursue then we would need to take more detailed advice on how such arrangements might be put into legal effect.

### **Financial implications**

8. If there is to be a more significant role for Transport Scotland then we would need to allocate staff resources to the project. At this stage it is difficult to be precise on numbers but is likely to be in the order of 4 or 5 staff. Some would be full-time and particularly at the start while we built up a more detailed understanding of the contract. That would clearly have implications for our running costs at a time when our resource budgets are under pressure. We would recommend, therefore, that we explored the possibility of the Council reimbursing our staff costs by charging them to the project.

### **Conclusion**

9. It would be helpful to discuss. We have not consulted widely on this advice. Any option for a degree of intervention beyond our current position carries risks and there is no time available to carry out any meaningful due diligence.

Ainslie McLaughlin  
Director MTRIPS  
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