



**EDINBURGH TRAM
Highlight Report to the
Chief Executive's
Internal Planning Group
17 February 2010**



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 redacted version of this report 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

Evaluation of Financial Contingency Measures, Strategic Options and Financial update

An update is provided on project 'pitchfork', financial contingency planning, the alignment of the Roads programme, Governance and the Council's £45m contribution.

Tram Monitoring Officer Update

An update on the Dispute Resolution Process (DRP) including a summary of DRPs is provided along with progress on agreeing a further on-street supplemental agreement.

Communications Update

Information is provided on the communications being undertaken for the promotion of the tram TROs, and the next edition of Outlook plus the media interest in this stage of the project.

Tram Legal Agreement with Forth Ports

The Director of City Development has met Forth Ports and agreed the principles for the Section 75 contribution. Details of the agreement are contained in the report.

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.

Cycling Accidents around Tram Infrastructure

Following on from the last IPG, further information is provided on the cycle related accidents on or around the new tram infrastructure on Princes Street. Further measures have been put in place and monitoring is being undertaken.

Land Acquisition and Certificate(s) of Appropriate Alternative Development (CAAD)

The Director of City Development has chaired an internal meeting with all officials involved in the CAAD process and has appointed a SRO to manage the associated risks. An updated appendix that details all the plots of land affected is also provided.

Council staff costs for 2010/2011

A review of internal resources has been undertaken and further secondments identified. The Council staff recharge to the tram project for 2010/11 has also been agreed with tie ltd.



Planned Future Tram Council Reports

A list of planned future tram related Council reports is provided.

Risk Review

A review of the Council's Tram Risk Management Plan has been undertaken and the risks with the highest impacts are contained within this report.

Leith Walk Footways – Public Realm

Public realm improvement have been identified for Leith Walk and up to £2m has been allocated to these improvements by SfC. The timing of this work is being planned to avoid any complicated contractual conflicts with the tram contractors.

2.2 Matters to Note or for a Decision

- To note the update on project 'pitchfork', the financial contingency planning, the alignment of roads programme and the financial update.
- To note the Tram Monitoring Officers update on DRP and the further on-street supplemental agreements.
- To note the communications update.
- To note the position with regard to the legal agreement with Forth Ports.
- To note the progress with the Statutory Approvals and consents.
- To note the remedial action being taken regarding the cyclist accidents on Princes Street and that monitoring has been set up, with the assistance of the Police.
- To note the position regarding land acquisition and CAAD applications.
- To note the review of staff cost recharge to the tram project for 2010/11 and the proposed secondments.
- To note the planned tram related Council reports planned.
- To note that a review has been undertaken of the Council's tram risk management plan.
- To note that SfC has allocated up to £2m for the public realm improvements on Leith Walk.

3 Evaluation of Financial Contingency Measures, Strategic Options and Financial Update (Presented by Alan Coyle)

Project "Pitchfork" Update

Following instruction from the Tram Project Board on the 13 January 2010, tie ltd have instigated a series of workstreams with the objective of arriving at a recommendation to the board on the best strategic option to pursue to bring about a change in the delivery of the project due to the ongoing commercial disagreements with Bilfinger Berger and to provide a view of the best way forward for the project. The recommendation from project "Pitchfork" will be reported to the Tram Project Board meeting of the 10 March 2010.

Broadly, there are three strategic options under evaluation;



Terminate Infraco (Most Undesirable Option)

- Unlikely we could demonstrate fundamental breach
- Effectively would result in project termination

Exit BB (Negotiate Mature Divorce with BB – Most Desirable Option)

- Many permutations (**tie ltd** manage civils/new civils partner)
- Many procurement and legal implications to be evaluated
- Potential for a more phased approach to construction

Grind it Out (Undesirable given current behaviour)

- History of non-delivery by BB
- Relationship currently broken
- No guarantee that further cash demands wouldn't materialise

tie ltd continue to work with BSC to negotiate an agreed programme and a solution for on-street works. There continues to be a significant delta, in the region of £10m between **tie ltd** and BSC for agreement on further on-street works. The deadline for agreement for on-street works and programme is mid March.

To further inform the “Pitchfork” work **tie ltd** have also embarked on a strategy of building a case against BSC to demonstrate the failure BSC have made in core obligations under the Infraco contract.

In order to substantiate the case against BSC **tie ltd** are undertaking audits of BSC failure on a number of areas;

Design Audit

- Management of design process and changes
- Best value evidence missing
- Behaviours and co-operation
- Delay and mitigation
- Expert commentary on due skill and care of design activities

Programme Audit

- Failure to mitigate programme delays



Subcontractor Audit

- No executed subcontracts, Letters of Intent only
- No collateral warranty arrangements in place

These audits are a very important strand to help inform the recommendation to the board.

Examination of the Contractual, Commercial and Legal levers will be a crucial part in underpinning the recommendation to the board and the best option to take.

Financial Analysis will also be undertaken to evaluate each of the available options. This will be underpinned by legal guidance on the options that are viable. The options for delivery will be scoped out with various phasing options evaluated to enable affordability and deliverability decisions to be made. The financial implications will also be examined for the TEL business plan and the impact should there be any re-phrasing of construction.

Another critical part of the strategy will be the Communications workstream. Once the recommended strategy is implemented it will be important that a well thought out communications strategy is established given the political and public interest that will be generated.

Governance of the “Pitchfork” work has also been mapped out. The board meetings in the interim period to the 10 March deadline will be given an update on progress on all the project work streams.

In addition, Richard Jeffrey is meeting on a weekly basis with Dave Anderson, Donald McGougan, Alan Coyle and Nick Smith to update the Council on progress and matters arising. There are also weekly meetings planned between Stewart McGarrity and Alan Coyle to discuss the emerging financial position in order that the Council has a full understanding of the financial implications of each of the options under evaluation.

It is likely that an update on the project will be reported to Council on the 27 May 2010 covering the outcome and implications of the strategic options work.

Our Options	Their Options
Comply with Infraco	Comply with tie ltd
Get BB comply with tie ltd	Get tie ltd to comply with BB
Terminate Infraco contract	Terminate or provoke tie ltd into termination
Negotiate BB exit	Remove tie ltd
Grind through the issues	Negotiate BB exit
	Grind through the issues

Financial Contingency Planning

Finance continues to work with **tie ltd** on the options noted above. The impact of the findings of project “Pitchfork” will further inform the required contingency should project costs exceed £545m. The review of the TEL business plan assumptions will also impact on the availability of prudential borrowing to pay for Phase 1a construction.



Finance Update

Transport Scotland have now contributed £321.6m to the project to facilitate spending to the end of period 13 of financial year 2009/10 (period ending 31 March 2010). The latest cash application to Transport Scotland is for £7.7m with the Council contributing £697k.

The current forecast call on Transport Scotland funding for 2009/10 is £105m. It is likely that circa £150m will be made available by Transport Scotland for next financial year, Finance await confirmation of this from Transport Scotland.

The average run rate for the current financial year, based on cost of work done, is £8.6m per period. Based on this run rate there is around 23 months of funding to go on Transport Scotland's commitment of £500m. It should be noted this is a very crude estimate. Completion of the utilities works will shortly be complete. This will mean there are no utility related costs in the future, the average run rate, per period, of utilities works is circa £1m in the current year.

However, to put this in context, the costs to date on Infrastructure is currently £87.2m against a budget of £244.9m of which £45.2m relate to mobilisation payments. Overall progress on Infrastructure works is 13%.

Alignment of Roads Programme

The post completion analysis of Princes Street has shown that full depth road reconstruction was undertaken the full length of the site. This was a result of the design solution for Princes Street showing that this was required. The contract price never assumed full depth reconstruction, and as a result the additional costs were not included in the original cost estimate for the project. A positive impact for the Council as a result of full depth reconstruction is the enhancement that has been made to our asset. The design life of the road is now significantly more than would have been the case otherwise.

As noted earlier, **tie ltd** are a significant step away from agreeing the way forward for the remaining on-street sections of the project. A key requirement for any further on-street works will be that **tie ltd** has better control over the design solutions that are recommended and thus, control what happens on the ground better than was the case on Princes Street. By ensuring greater control over design and construction, it would be anticipated there will be greater opportunities for realising value engineering solutions. However, there will be elements of the on-street works that will require full-depth reconstruction that will enhance the Council's asset, negating the requirement for the Council to undertake this work under the roads programme in the future. Therefore, where there can be genuine betterment demonstrated through the on-street works of the tram, it may be appropriate the there is a credit to the tram project budget from the roads programme due to the enhancement of the asset.

There are certain downsides to this proposal for the Council. The delivery mechanism chosen would influence this. If BSC were to undertake this work, past experience has shown that best value is not demonstrated in a way that can be delivered by the Council's framework contractor. However, the interface risk that the Council could be exposed to by effectively following the contractor could also have a negative impact.





It is recommended that this issue should be considered for future on-street delivery of the tram project and where genuine enhancement of the Council's asset can be demonstrated, consideration of matching betterment with the Council's road maintenance programme should be considered.

Governance

The first meeting to initiate Phase 2 governance arrangements took place on 2 February 2010. There are a number of workstreams that flow from this with substantial completion of proposals programmed for June 2010. Issues that require immediate attention are the remit/role of TEL and the structure of TEL. Once this is established the majority of the workstreams flow from this. The action list from the meeting of the 2 February is attached as Appendix 1 for information.

Review of Council's Tram Funding Strategy

The Council's strategy to fund its £45m contribution towards the Tram project was reviewed in the summer of 2009 by DTZ, to assess whether the strategy remained achievable in light of the economic downturn. Despite highlighting several challenges which the Council faced, in particular surrounding the timing and value of the developers contributions and capital receipts that made up the majority of the £45m contribution, DTZ concluded that, in spite of the economic downturn, the Council would be able to meet its obligations to the tram project in the short-mid term, by using what contributions it had received thus far to fund loan costs and interest payments during the economic downturn, and then repaying the capital once the level of developer contributions and capital receipts recovers, following an upturn in the market.

It was agreed that the Council would keep the funding strategy under close review, during this period of economic uncertainty, and report on a 6-monthly basis to the IPG.

The table below shows the total funding achieved to date:

CEC Contribution Breakdown	Planned Contribution	Achieved Contribution
Council Cash	£2.5m	£2.5m
Council Land	£6.2m	£6.2m
Developer Contributions – Cash	£25.4m	£4.3m
Developer Contributions – Land	£1.2m	£1.2m
Capital Receipts (Development Gains)	£2.8m	£0.0m
Capital Receipts	£6.9m	£2.0m
Total	£45.0m	£16.2m





There has been an increase in the amount of developers contributions received in recent months, with an additional £867k received in the period Dec 09 – Jan 10. In addition, the EICC extension project has been approved, which is due to contribute £830k to the Tram project.

However, the indications are that the market in Edinburgh is still in a slowdown, and there have not been any new planning applications received which would contribute significant amounts to the Tram project. In addition, discussions with Forth Ports are still ongoing, regarding the likelihood of receiving their Tram contribution. As such, the impact on the Tram funding model remains relatively unchanged from that which was reviewed by DTZ, in that the Council should be able to fund its short-mid term interest payments and loans charges.

An updated position has also been sought regarding the expected level of Capital Receipts. The value of these receipts have been reduced further to £7.2m with the phasing of when the receipts are likely to be realised pushed back a further year.

It is anticipated that during the spring months, a number of property consultants will publish their market analysis reports, which may give a greater indication of market trends. In addition, the Council's Planning department are also due to report in the spring on their own review. Following the publication of these reports, the next 6-monthly review of the Council's funding strategy should be able to pick up on these wider market indicators.

At this time, there remains considerable uncertainty surrounding the likely final cost of the project, although it is likely to exceed the £545m.

The Council's financial strategy means the Council have to fund its contribution in advance of recovering the funding from developers and capital receipts. Therefore, the Council have now contributed a total of £30.7m to the project – the difference of £14.5m against the contributions secured is currently being funded through the Council cash flow management.

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

As noted previously, negotiations continue between **tie ltd** and BSC on a commercially agreed programme encompassing a solution for an On-Street Supplemental Agreement (OSSA), though a delta of £10m exists between the commercial position of **tie ltd** and BSC. Under the present terms it is unlikely a revised OSSA will be signed in its current form as it does not represent best value and presents potential procurement issues.

The commercial impact and financial implications of the Princes Street Supplemental Agreement (PSSA) have yet to be finalised. An interim meeting to look at financial and technical issues took place between Council Finance, City Development and **tie ltd** in order for the Council to get a better view on the lessons learned from the PSSA. There are significant issues regarding remedial works that **tie ltd** have paid for that should be to BSC's account. **tie ltd** have dedicated a resource to close out the PSSA commercial issues by the end of February, a follow up meeting will be arranged with **tie ltd** at that point. The findings of this meeting will be reported to the IPG.

The overall project completion is 13.8%, which is an increase of 0.7% for this period against a plan of 4.1%.



There are currently only two active DRP's, they both relate to design related issues at Baird Drive and Balgreen Road bridges. The total delta on both of these DRP's is £1.8m, the detail of which is included in the table below.

It seems likely, following a previously inflated estimate, that the Balgreen Road issue will be settled without the requirement for adjudication. BSC have revised their estimate down to c£350k, which is much closer to **tie ltd's** evaluation.

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).

BSC Dispute Summary (Live and Potential Cases)

Case Number	DRP Item	Status	Summary Description	tie view £k	BSC View £k	Delta £k	Outcome/ Financial Impact £k	Notes
	5e	P	Tower Bridge (BDDI-IFC)	-	-	-	-	No estimate currently provided
	5h	P	Bankhead Drive (BDDI-IFC)	1,000	-	-	-	No estimate currently from BSC
	5m	P	A8 Underpass (BDDI-IFC)	175	-	-	-	No estimate currently from BSC
	5L	P	Section 7 Drainage (BDDI-IFC)	125	-	-	-	No estimate currently from BSC
	5k	P	A8 Underpass Piles (Ground Conditions)	-	-	-	-	No estimate currently from BSC
	5j	O	Balgreen Road Retaining wall (BDDI-IFC)	300	800	500		It is likely that this DRP will be settled without referral to adjudication as BSC have revised their estimate down to £350k.
	5i	O	Baird Drive (BDDI-IFC)	600	1,900	1,300		This is likely to require adjudication but no timetable is available for this yet.

O=Outgoing
P=Proposed
I=Incoming
C=Complete
S=Settled
A= Awaiting Adjudication

5 Communications Update (Presented by Isabell Reid)

Media

There remains intense media interest in the outcome of the dispute. Richard Jeffrey briefed Group Leaders on the circumstances around current worksites and reactive statements have been prepared from the Council Leader and **tie ltd**. It is anticipated that specific media outlets will be briefed on this shortly.





There has been party political manoeuvring from the Conservatives within the last week regarding the Tram Sub-Committee and from the national Labour party regarding switching tram funding to the GARL project. This will be monitored over the coming weeks.

Outlook

This quarter's content leads with a detailed map of works from Haymarket to the airport. There's also news on the successful completion of Princes Street and the tram TRO process.

TRO

No major update from last month. The preparation for the public exhibition, which will be held at City Chamber reception from 22 Feb - 20 March, is going well. Advertising will be taken out in the Edinburgh Evening News on Thursday 18, Monday 22 and Thursday 25 February to promote the exhibition which will be staffed from 11am - 3pm Monday - Saturday with extended opening to 7pm on Thursdays. A simplified leaflet of the drawings has been produced which will be distributed to libraries, neighbourhood offices and public buildings. Sets of drawings will also be available at Central, Portobello, Wester Hailes, Blackhall, McDonald and Leith Libraries for the duration of the consultation.

Staffing

Lynn McMath will be seconded to **tie ltd** as Media Manager from Monday 8 March. Her appointment will aid the one family approach and will ensure a co-ordinated approach in dealing with the media.

6 Tram Legal Agreements with Forth Ports (Presented by Dave Anderson)

Since the last IPG meeting a further meeting has taken place on 2 February with Forth Ports (FP) and the director of City Development, where the following Section 75 developer contributions issues were agreed:

- Donation by Forth Ports of specified land with the line of deviation of the tram route at nil consideration;
- A tram contribution of £3.2m in relation to the current phase of development i.e. the detailed application that will come to the Planning Committee for the Harbour at Leith Docks this year;
- An 'overage' payment to the Council of up to £5,000 per unit for each residential unit for which the net sales receipt exceeds £50,000 to be extant for a period of 10 years from the date of signing the Section 75 agreement. The calculation of net price would take account of the following conditions:
 - (a) Reasonably incurred cost of sales;
 - (b) FP's infrastructure profit on total development costs achieving at least 20%; and,
 - (c) FP's internal rate of return for infrastructure being at least 20%.

The specific definitions of 'sales costs', 'infrastructure profit' and 'internal rate of return' will be defined in the Section 75 agreement to ensure clarity, simplicity and transparency for future reference.



It also agreed that we would leave the Section 75 contributions in relation to the subsequent phases of development (i.e. urban villages 3-9) to be negotiated on a village by village basis as detailed planning applications for these come forward, although consideration will be required on its impact on transport, education and other areas.

7 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 2.

CEC Statutory Council Approvals and Consents	Total Number of Submissions	Total number of Approvals	% Complete
Prior Approval	64	61	95%
Full Planning Permission	10	9	90%
Listed Building Consent	11	11	100%
Scheduled Monument Consent	1	1	100%
Building Warrant	18	15	83%
Technical Approvals (including Structures, Roads and Drainage)	125	112	90%
Total	229	209	91%

There remains a significant amount of conditioned matters that need to be addressed as part of the statutory Planning and Technical approvals and pressure is being placed on **tie ltd** to produce a delivery programme that demonstrates how these issues can be dealt with.

8 Cycling Accidents around Tram Infrastructure (Presented by Andy Conway)

Further to the report at the last IPG, where a small number a cyclist related accidents have occurred following the introduction of the tram tracks on Princes Street, a number of 'Cycle Safety Measures' have been undertaken.

tie ltd sponsored a training day run by Edinburgh Bike Station on the 10 December 2009 in a cordoned off area on Princes Street. Cyclists were given practical training on the correct path to take when crossing the rails.

Temporary signing has been erected and authority to erect permanent signs is to be sought from the Scottish Government (this had been planned to be complete by now, but the delay in the design process has impacted the programme). Improved road markings have also been designed and will be implemented shortly by BSC.

Consultation is also ongoing with Spokes to agree the signage of the alternative routes that avoid the tram tracks.

Accident monitoring, with the assistance of the Police, has also been set up to monitor any trends should further remedial action be required.



**9 Certificate of Appropriate Alternative Development (CAAD)
(Presented by Dave Anderson)**

The Director of City Development has chaired a meeting with all those officials involved in the CAAD process and has appointed Marshall Poulton as the SRO for managing the financial risks that are associated with potential future claims.

Appendix 4 details a revised and updated position with the CAAD's.

10 Council staff costs for 2010/2011 (Presented by Andy Conway)

A review of internal resources working on the tram project has been undertaken, which included considering further joint working opportunities with **tie ltd**. A copy of the paper prepared is included as Appendix 5. The following additional secondments have been agreed with **tie ltd**:

- Lynn McMath (Comms) to improve the 'one-team' communications
- Karl Ivanov (Transport) and Ian Woodcock (SfC) to improve the roads adoption process

The additional Council staff costs for 2010/2011 is £669k.

11 Planned Future Tram Council Reports (Presented by Andy Conway)

The table below identifies the planned tram related Council reports and will be a standing item on the IPG for agenda planning purposes.

Consideration has been given to bringing forward the report on the Remuneration Strategy for all Council companies (item 5 below, that was planned for June), but given the amount of preparatory background work involved this may not be possible.

		2010											
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	Update on governance – on ETLMOU					27/5/10							
2	DRP progress, including costs and programme implications					27/5/10							
3	Lothian Buses integration proposals				29/4/10								
4	Lothian Buses integration - approval of final arrangements								19/8/10				
5	Remuneration Strategy (for all Council companies) - including TEL and tie ltd						← 24/6/10						
6	Tram Traffic Regulation Orders		9/2/10				24/6/10						
7	Magdala area traffic calming					4/5/10							
8	Consultation on the future pedestrianisation of Princes St, plus update on the success of winter festivals embargo		23/2/10										



Key

Full Council
Transport, Infrastructure and Environment Committee
Policy and Strategy
Tram Sub Committee

12 Risk Review (Presented by Alan Coyle)

A review of the Council’s Tram Risk Management Plan has been recently undertaken. This review was undertaken by Council Officers from a variety of professional disciplines to ensure all apparent risks were captured and mitigation plans put in place. It is anticipated that the Risk Management Plan will form a standing agenda item at the Tram Co-ordination meeting, which occurs every four weeks. This will provide a good forum to discuss any emerging risks and enable active management of previously highlighted risks as well as refining the Risk Management Plan to enable the document to become more effective. The risks identified with the highest impacts are included as Appendix 6 of this report and will continue to be included in this report in the future.

13 Leith Walk Footways – Public Realm (Presented by Marshall Poulton)

Improvements to Leith Walk footways have been highlighted as a priority by the Council as a part of the public realm improvements associated with the tram route. Significant improvements to the footways and general public realm will be delivered by the tram project with new arrangements and facilities. There may, however, be a requirement to improve areas further, increasing the quality and arrangement of materials, street features and spaces that the tram will not be able to deliver. Up to £2 million has been allocated from the Council's capital maintenance budget by SfC for this purpose. It is anticipated that these further improvements will be delivered once the tram is in place in 2013. This timing will allow improvements by the tram to be completed and to avoid complicated contractual conflicts.

List of Appendices:

- 1 TEL/tie/LB Governance and transition meeting 2 February 2010
- 2 Statutory Council Approvals – Tables 1 and 2
- 3 Statutory Council Approvals – Tracker
- 4 Certificate of Appropriate Alternative Development (CAAD)
- 5 CEC Tram Staff Resources Report 2010/11
- 6 Extract from CEC Risk Register dated 27 January 2010



TEL/tie/LB Governance and Transition Meeting

8.30am Tuesday 2nd February 2010

Waverley Court

Present; Alan Coyle, Nick Smith, Dave Anderson, Gill Lindsay (all CEC), Graeme Bissett (tie ltd)

Actions

In broad terms it was decided that the end of June should be the target date for the completion of the planning work for Phase 2 of the revised governance arrangements for integration. A programme of approval should be established and should link into Council reporting requirements.

1. Corporate Structure

- The group decided proposed model A should be the desired outcome for planning purposes. It was also agreed that this model could be modified in future if required.

2. Roles of individual legal entities

- Reasons and role for TEL to be formalised. This will help drive board selection.
- Workshop between senior officers to be timetabled to decide what should be included in TEL's revised Memo and Articles.
- A revised operating agreement will also be required between TEL/LB/CEC.
- It was noted that operational management issues are currently being taken forward to Bill Campbell and Ian Craig.
- tie's role going forward needs further discussion in 3 to 6 months.

3. Board Composition

- The working assumption should be that there is no Council Official or Councillor membership of the TEL board post construction.

4. Legal, regulatory, contractual and constitutional matters and governance model

- Further work will be undertaken by DLA on these issues, this will include a refresh on the Competition Act, State Aid and Transport Act requirements.

5. H & S

- This will follow on from the company structure and operational management issues. Clarity on board responsibility needed in the future

6. Financial and Tax Planning

- Examination of fees considered by the group. CEC will seek a benchmark to compare PwC prices with those available from framework providers before proceeding.



7. Employment

- Terms and conditions audit required on existing tie/LB staff. The HR process to be agreed with the Council in advance of TEL recruitment process.

8. Comms – No major issues at this time.

9. Insurance – No short term issues.

10. Facilities – No short term issues.

11. Progress reporting to shareholders

- Timing of Council meetings and Boards to be established. Target of August Council meeting.

The next meeting will be arranged for March



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	9	90%
Listed Building Consent	11	11	100%
Scheduled Monument Consent	1	1	100%
Building Warrant	18	15	83%
Technical Approvals (including Structures, Roads and Drainage)	125	112	90%
Total	229	209	91%

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	3	1	0	0	0	1
Informal consultation started	3	2	0	0	0	1
Application submitted	1	0	1	0	0	1
Approval granted	97	61	9	11	1	15
GRAND TOTAL and Sub Totals	104	64	10	11	1	18
% Complete	93%	95%	90%	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	12	7	0	4		1	1
Technical Approval Granted	112	89	12	10	1	0	
Not Yet Due	1	1	0	0	0	0	1
Delay	0	0	0	0	0	0	0
GRAND TOTAL and Sub Totals	125	97	12	14	1	1	1
% Complete	90%	92%	100%	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 3

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 Port require the design to be changed to accommodate their floorplan of a proposed future building. Agreed with Director of City Development on 13/10/09.
5A	5/05c			29 Roseburn Street – JB McLean (Building Warrant)			Pending Consideration. BSC to provide information to SDS. Target date TBC
	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
3A	Roads & Drainage				31/10/09	?	Progressing application in accordance with priority list
3B	Roads & Drainage				31/10/09	?	Progressing application in accordance with priority list
3C	Roads & Drainage				31/10/09	?	Progressing application in accordance with priority list

COMPULSORY ACQUISITION		RISKS TO LAND BUDGET FROM PLANNING ISSUES															
LOCATION	PREVIOUS OWNERSHIP DETAILS	PLOT NO	AREA (m2)	DV VALUE	PLANNING BASIS	PLANNING/ CAAD RISK	RISK VALUE if PLANNING/CAAD positive	COST RISK	ADDITIONAL FEES	ADDITIONAL INTEREST	TOTAL AT RISK	BUDGET RISK	ACTION TO MITIGATE				
FORTH PORTS	CALA Management Ltd	47											CAAD appeal in front of reporter				
	CALA Management Ltd	48	566	£ 10,000	transport	residential	£900,000	£ 250,000	£ 18,000	£ 78,214	£ 1,246,214	£ 1,236,214					
	CEC	49	310		transport	residential	incl in above										
HAYMARKET YARDS	Haymarket SPV Ltd	516	206	£ -	transport	office/business	£0	£ -	£ -	£ -	£ -	£ -	Risk arises if CAAD decisions vary from planning advice given to District Valuer when estimates were prepared. BAM have application for CAAD currently live. CALA at appeal to reporter and thereafter to Lands Tribunal. Considerable costs have already been incurred and are not recoverable. Possible substantial third party costs to meet. Statutory obligation to pay. CEC defending actions. Planning dept confirming Negative CAADs appropriate. All legal routes of defending applications being employed.				
	Haymarket Yards Ltd	517	1056	£ 28,750	transport	office/business	£250,000	£ 75,000	£ 5,000	£ 21,726	£ 351,726	£ 322,976					
	The Institute of Chartered Accountants of Scotland, 1 unknown owner, & Begbies Traynor (as liquidator for Braemar Homes Ltd in respect of 21 m2)	518	1000	£ 50,000	transport reservation/amenity	office/business	£250,000	£ 75,000	£ 5,000	£ 21,726	£ 351,726	£ 301,726					
	CEC & Jones Lang LaSalle Ltd as agents for the Universities Superannuation Scheme Ltd	523	1245	£ 45,104	transport reservation/amenity	office/business	£250,000	£ 75,000	£ 5,000	£ 21,726	£ 351,726	£ 306,622					
GYLE	CEC & Jones Lang LaSalle Ltd as agents for the Universities Superannuation Scheme Ltd	478	1968	£ 57,600	transport reservation/amenity	retail	£1,000,000	£ 60,000	£ 20,000	£ 86,904	£ 1,156,904	£ 1,099,404	Risk caused by changes to planning framework rules regarding retail developments. This land previously thought of as amenity land now has potential to be considered as extension to car park to permit larger shopping centre so may be much more valuable. Claim not lodged yet. Betterment not significant issue here, although having the tram stop will help value of centre.				
	CEC	479	111	£ 1,150	transport	retail	£0	£ -	£ -	£ -	£ -	£ -					
	CEC & Jones Lang LaSalle Ltd as agents for the Universities Superannuation Scheme Ltd	480	69	£ -	transport reservation/amenity	retail	£95,000	£ 50,000	£ 700	£ 3,042	£ 88,742	£ 88,742					
	CEC	481	5619	£ 33,580	transport	retail	£0	£ -	£ -	£ -	£ -	£ -					
	CEC & Jones Lang LaSalle Ltd as agents for the Universities Superannuation Scheme Ltd	482	1196	£ -	transport reservation/amenity	retail	£600,000	£ 50,000	£ 12,000	£ 52,142	£ 714,142	£ 714,142					
	CEC	483	3152	£ 14,407	reservation/amenity	retail	£0	£ -	£ -	£ -	£ -	£ 14,407					
AIRPORT/AB	CEC	495	505	£ 7,268	hope value	hope value	£0	£ -	£ -	£ -	£ -	£ 7,268					
	Haslemere Estates as agents for Meadowfield Developments Ltd	496	10724	£ 153,841	hope value	hope value	£450,000	£ 50,000	£ 9,000	£ 39,107	£ 548,107	£ 394,265	Risk here arises from the evolving planning position with prospect of development now more realistic than when estimates were done. Land in this area is valued on a hope value basis and the hope element is increasing.				
	CEC	497	25817	£ 213,645	hope value	hope value	£0	£ -	£ -	£ -	£ -	£ -					
	Haslemere Estates as agents for Meadowfield Developments Ltd	269	14551	£ 86,430	hope value	hope value	£600,000	£ 50,000	£ 12,000	£ 52,142	£ 714,142	£ 627,712					
	BAA plc, Edinburgh Airport Ltd, & Scottish Airports Ltd	499	41805	£ 779,174	hope value	hope value	£2,100,000	£ 50,000	£ 42,000	£ 182,498	£ 2,374,498	£ 1,595,324	Risk being managed by Betterment issue which could offset any compensation amounts were claimant retains significant land areas which will benefit from tram. Likelihood that no claimant will accept Betterment offset without Lands Tribunal decision so we are considering a pre-emptive test case. EAL currently front runners as we consider it would be very difficult politically for them to claim that the tram was of no benefit to the airport. Also considering if CEC application for CAAD would assist.				
	Haslemere Estates as agents for Meadowfield Developments Ltd	498	16016	£ -	hope value BAA?	hope value	£650,000	£ 50,000	£ 13,000	£ 56,488	£ 769,488	£ 769,488					
	Pinnacle Towers Ltd, Royal Bank of Scotland plc	273	4416	£ 115,000	hope value	hope value	£250,000	£ 50,000	£ 5,000	£ 21,726	£ 326,726	£ 211,726					
	Haslemere Estates as agents for Meadowfield Developments Ltd	289	1188	£ 69,000	hope value	hope value	£120,000	£ 50,000	£ 2,400	£ 10,428	£ 182,828	£ 113,828					
	New Ingleston Ltd	291	8046	£ 175,000	hope value	hope value	£950,000	£ 50,000	£ 17,000	£ 73,868	£ 990,868	£ 816,868					
	New Ingleston Ltd	303	10064	£ 150,000	hope value	hope value	£1,100,000	£ 50,000	£ 22,000	£ 95,694	£ 1,267,694	£ 1,117,594					
	New Ingleston Ltd	312	17728	£ 180,000	hope value	hope value	£1,800,000	£ 50,000	£ 36,000	£ 166,427	£ 2,042,427	£ 1,862,427					
	New Ingleston Ltd	318	5616	£ 100,000	hope value	hope value	£500,000	£ 50,000	£ 12,000	£ 52,142	£ 714,142	£ 614,142					
	FSH Airport (Edinburgh) Services Ltd	322	29477	£ 550,000	hope value	hope value	£4,000,000	£ 50,000	£ 80,000	£ 347,616	£ 4,477,616	£ 3,927,616					
	*	327	3360	£ 75,000	hope value	hope value	£450,000	£ 50,000	£ 9,000	£ 39,107	£ 548,107	£ 473,107					
	TOTALS			£ 2,894,847			£ 16,255,000	£ 1,225,000	£ 325,100	£ 1,412,625	£ 19,217,725	£ 16,571,253					

CLAIMS LODGED

	Claim	DV ESTIMATE	
WEST CRAIGS	£ 8,500,000	£ 240,271	
NIL	£ 11,500,000	£ 1,445,500	
BAM	£ 2,000,000	£ 28,750	CAAD lodged. Planning view prepared - to be reported to Committee
CALA	£ 1,500,000	£ 10,000	CAAD lodged Applicant appealed on grounds on non determination. To be determined by Reporter. Planning view prepared. CEC response to be submitted to Reporter.
EAL	£ 4,500,000	£ 666,825	
TOTAL	£ 28,000,000	£ 2,391,346	

Subject : CEC Tram Staff Resources Report 2010/11
Date : 4 February 2010

1.0 CEC Tram Staff Resources

The promotion of the Edinburgh Tram will require the City of Edinburgh Council to continue to carry out its statutory and regulatory functions as Planning and Transport authorities as well as Property, Finance and Legal functions throughout the design and procurement phases.

The staff resource implications for this work are significant due to the size, cost and the pressure of tightening timescales for delivery; however a further internal review has been undertaken for the financial year 2010/2011 to ensure that the Council minimises any additional costs to the tram project.

The review has identified that there are opportunities to make savings from April 2010 onwards. The additional external resources will reduce from £200K down to £40K achieving a saving of £160K. This will mean, for example, Services for Communities (SfC) having to consider the value of staff currently being funded by the project within the context of their own budgets.

Table 1 lists the additional external resources required for the Council and the proposed plans for reducing the costs being attributed to the tram project. Table 2 notes the proposed monthly costs for those staff.

Table 1

Name	Role Description/ Responsibilities	Change from 2009/2010	Annual Saving	Revised Annual Cost	Further Opportunities
Tom Clark (agency)	Liaison and approvals of all transport related temporary traffic diversions, TTROs and over view on site operations works and liaise directly with tie on matters of concern in co-ordination with Roads Services (SfC). Additional responsibility of all temporary traffic management.	It is envisaged that the amount of temporary traffic management changes and approvals will reduce in 2010, however there will still be changes required so it proposed that Tom reduce to 3 days a week.	£19K	£40K	The Council could replace Tom with an internal staff member on secondment (probably from within SfC), however this would not produce any financial savings.

Table 2 lists the resources that are no longer directly required to work on the tram project. The staff currently working within SfC may still have a role to undertake, but it is not necessary to deliver the tram. For those individuals, it is recommended that SfC review their own resources and determine what action is required – this is likely to impact Network Services the most with Lighting and Roadworks co-ordination. No funding should be sought from the tram project.

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Table 2

Name	Role Description and Responsibilities	Change from 2009/10	Annual Saving	Revised Annual Cost	Further Opportunities
Sheila Dove (agency)	Administration and secretarial support for tram team.	Due to the reduced numbers in the team it is proposed that this support be split between tie ltd and CEC without the need for additional resources.	£35K	£0K	None
Jamie Ashmore (Planning)	Backfilling post for Francis Newton (who is undertaking all the Planning Prior Approvals).	The majority of the Prior Approvals will be complete with only minimal work required in 2010. This work will be undertaken within Planning without any dedicated resources.	£30K	£0K	None
Ron Polson (SfC)	Assisting Andrew Hamilton with the co-ordination of SfC. Co-ordinating with other roadworks. Updating and developing the Council's GIS system.	SfC to determine if this is still required and to fund this within their budget, if required.	£52K	£0K	None
Alan Parkinson (Transport - agency)	Providing technical assistance for TROs and sign design approval plus approval tracking	The majority of the TRO design related work will be complete by 2010.	£20K	£0K	None

Two backfilling posts within Legal Services have historically been funded from Capital City Supplement; this requirement is now identified as 1FTE and will be absorbed within the Council's budget. It is also envisaged that £50k will be charged to the project for part of the Finance resource provided by the Council.

Table 3 lists the Council staff who will continue to work on the project as part of the core tram team which will require to be re-charged to the tram project. The total of the core tram team is forecast as £402K, however this would drop to £329K should Karl Ivanov take up a secondment opportunity. As the project develops, most notably on the approvals process, there may be further scope to assess areas within the wider project where Council staff could be suitably deployed.

APPENDIX 5

Table 3

Name Role	Role Description and Responsibilities	Committed Time	Project
Andy Conway Tram Co-ordination Manager (City Development)	Manage, lead and co-ordinate the statutory and regulatory approvals functions on behalf of CEC with tie and their consultants. Co-ordinate tram activities within the Council. Liaison Officer with tie and Transport Scotland (100%).	F/T Based at tie	
Alan Bowen Tram Co-ordinator (City Development)	Co-ordination activities between all CEC sections and project manage the activities of the tram approvals' team, including the re-adoption of construction tram related construction work. Main 2010/2011 workstreams comprise: <ul style="list-style-type: none"> • Tram Demarcation Agreement (30%) • Conclusion of technical approvals and dealing with changes proposed from BSC (10%) • CoCP approvals (10%) • Approving technical design relating to TRO 1, 2 and 3 plus wider area (50%) 	F/T Based at tie	
Andrew Renwick Senior Professional Officer (City Development)	Liaison and technical approvals of all transport related INFRACO works particularly temporary and permanent traffic management arrangements including roads and traffic signal design, TROs, lighting and structures. Main 2010/2011 workstreams comprise: <ul style="list-style-type: none"> • Conclusion of technical approvals and informatives and dealing with changes proposed from BSC (75%) • Cycle integration study and measures (10%) • Traffic calming in the Magdala area (15%) 	F/T Based at tie	
Karl Ivanov Professional Officer (City Development)	Providing technical assistance and advice to Andrew Renwick for roads design issues plus undertaking adoption of the new tram works. Proposed to be seconded to tie ltd to assist with the technical knowledge on site and to assist with adoption of works once complete.	F/T Based at tie	
Robin Goodwin Technician (City Development)	Providing technical assistance and advice to Andrew Renwick for roads design issues plus undertaking adoption of the new tram works. Main 2010/2011 workstreams comprise: <ul style="list-style-type: none"> • Conclusion of technical approvals and dealing with changes proposed from BSC (100%) 	F/T Based at tie	
Shaun Wallace Technician (City Development)	Providing technical assistance and advice for temporary and permanent traffic management and the necessary approvals for TTROs and other related matters. (100%)	F/T Based at tie	
David Haxton (Corporate)	Liaison with tie and managing and responding to all CEC tram communications both externally and internally. The cost associated with this activity is covered by the Council's budget and has no impact on the tram project budget (100%)	F/T Based at tie	

Appendix 1 provides a further breakdown of the costs and budget codes.

Opportunities for further Secondments to tie ltd

To improve the Communications it is planned to second Lynn McMath from the Council's Communication team into the tram project in March. The projected annual cost of this secondment will be £65k.

A further review of the roads adoption process, which includes quality management issues has also identified the need to have a better closer working relationship with **tie ltd** and the contractor, and it is proposed that Karl Ivanov (from City Development) and Ian Woodcock (from Services from Communities) be seconded to **tie ltd** in April to assist in that role.

The secondments noted above are in addition to the secondment of Duncan Fraser, currently supporting the TRO process amongst other things. It is envisaged that the current secondment of Lynn Turner will end at 31 March 2010.

Following recent discussions on the use of one-family resources, it should be noted that wherever possible these opportunities should continue to be explored. It is therefore proposed that prior to any further resources being employed on the project that consideration is given to using internal Council resources in the first instance.

In addition, costs have been incurred from time to time by the Council on **tie ltd's** behalf. This includes an increase in the Siemens signal maintenance contract and Dun and Bradstreet reports. These costs will continue to be charged to the project as they are incurred.

2.0 Recommendations

It is recommended that the additional staff costs for 2010/11 £669K consisting of;

- £40K – External Support
- £206K – CEC Secondments
- £44K – Siemens Signals Maintenance
- £50K – Finance
- £329K – Core Team

be charged to the tram project.

That Services for Communities and Legal Services are advised of the revised situation and that they take appropriate action, if required, within their individual budgets.

That prior to any further resources being employed on the tram project that consideration is given to using internal Council resources in the first instance.

Prepared by: Andy Conway / Alan Coyle

Recommended by: Dave Anderson / Donald McGougan

Date: 4 February 2010

APPENDIX 5

Appendix 1

Budget Code	Name	Function			Revised Total 09/10	Forecast 2010/11	(Saving)/ Increase	Assumptions
CEC Staff as per Change COP047								
55022	J Ashmore	Planning	T06.04 CEC	COP047				
55022	Sheila Dove	Secretarial/Admini- stration	T06.04 CEC	COP047				
55022	Ron Polson	SFC	T06.04 CEC	COP047				
55022	Tom Clark	Transport	T06.04 CEC	COP047				Forecast based on 3 days per week. May be an opportunity to reduce to 2 days.
55022	Alan Parkinson	Transport	T06.04 CEC	COP047				
55022	Paul Cobley	Transport		COP047				
Total					199,712	39,474	-160,238	
CEC Staff Seconded to Tie								
55020	Duncan Fraser	Transport	T01.01 tie PM					
55043	Lynne Turner	Transport	T01.01 tie PM					Assumes secondment ends March 2010.
55043	Karl Ivanov	Transport	T01.01 tie PM					Assumes secondment from April 2010.
70520	Lynn McMath	Corporate Services						Assumes secondment from April 2010.
Total					128,141	206,508	78,367	
Miscellaneous Costs								
55022	Siemens Out Of Hours		T19 Infracore		43,665	43,665	0	
Total					43,665	43,665	0	
Financial Services Charges								
76353	Part Cost - Alan Coyle/Ailie Wilson	Finance			0	50,000	50,000	
Total					0	50,000	50,000	
CEC Staff as per Change COP071								
55020	Andy Conway		T06.04 CEC	COP071				Includes uplift for 1% pay award
55020	Alan Bowen		T06.04 CEC	COP071				Includes uplift for 1% pay award
55043	Karl Ivanov		T06.04 CEC	COP071				Moves to seconment basis from April 2010
55020	Robin Goodwin		T06.04 CEC	COP071				Includes uplift for 1% pay award
55020	Shaun Wallace		T06.04 CEC	COP071				Includes uplift for 1% pay award
55099	Andrew Renwick		T06.04 CEC	COP071				Includes uplift for 1% pay award
Total					399,535	329,249	-70,286	
Period Total					771,053	668,896	-102,157	

APPENDIX 6

Extract from CEC Risk Register dated 27 January 2010

Date Added	ID	Risk Category	Risk Description	Likelihood	Impact	Score	Existing Controls	Likelihood	Impact	Score	4 Ts	Relevant Actions	Ownership	Potential Cost	Likely Cost
22Jan10	5	Commercial	Adverse commercial stance of BSC	10	10	100	Infraco Contract, DRP	9	9	81	Treat	Further DRP, de-scope BB, use audit mechanism to build case for breach of contract	Marshall Poulton	£80,000,000	£30,000,000
22Jan10	2	Commercial	Failure to agree supplementals risk of continuing intransigence of BB.	9	10	90	Existing Contract	9	9	81	Treat	Continue DRP process and evaluation of Strategic Options	Marshall Poulton	£100,000,000	£40,000,000
22Jan10	19	Finance	Cost over runs lead to increased scrutiny by 3rd parties e.g. Audit Scotland, TS, political groups, public and media	10	9	90	Periodic meetings with third parties and political groups	8	7	56	Treat	Proactive Press coverage and media briefings. Continuation of meetings/briefings with political leaders and stakeholders.	Marshall Poulton/LynnMcMath		
15May07	29	Legal.	Delays caused by constraints from the Network Rail Bridge Agreement. --- Delay to Tram Operations	9	9	81	Letter to ORR	5	6	30	Tolerate	Report being prepared by Legal and Properties Services to be presented to ORR.	Dave Anderson		
22Jan10	17	Finance	Failure to take timely decision on re-phasing of construction	8	10	80	Tram Project Board as the strategic decision making body, greater Council Officer involvement.	7	9	63	Terminate	Robust assessment of strategic options needed. Potential De-scoping of BB at Haymarket following completion of off street sections. Remaining on street works completed via smaller package contracts to gain more control.	TPB	£60,000,000	£40,000,000
22Jan10	18	Finance	Inability of council to afford cost over runs	8	10	80	Infraco Contract, Dispute Resolution Process, Strategic Options considerations	7	9	63	Treat	Use all possible mitigations to ensure cost overrun does not happen. Reduce costs within the project budget where appropriate/achievable. Contingency Planning - Examine TEL Profits to finance prudential borrowing, TF for funding Ocean Terminal section, Inclusion of additional borrowing costs in CEC's long term financial plan. Approach TS for additional funding.	Donald McGougan	£100,000,000	£50,000,000
08Jan07	38	TRO. Political. Comms.	Risk of delays due to the Public hearing process for TROs with potential for a large number of objectors. Delay in final design holding up promoting TROs. Potential legal challenge due to TROs mirroring TTROs. Members may support objections to traffic management proposals. --- Delay to INFRACO completion. Increase in costs.	9	8	72	TRO strategy approved by Transport, Infrastructure and Environment committee. TROs being divided into four sets of orders with the first set being considered 'core' orders which are required to run the tram as the business case, and the regulations now do not require a public hearing.	3	8	24	Treat	Minimise voluntary public hearing called by Members for core orders.	Andy Conway		
22Jan10	1	Commercial	Supplemental agreements required to deliver original contract terms. Using the experience of the Princes St supplemental agreement could expose the project to cost increases related to Full Depth reconstruction and an over engineered design.	7	10	70	Site Supervision/Daily record sheets requiring sign off by construction directors	6	6	36	Treat	Ensure greater site presence is in place. Take greater control over design solutions and ensure that further on-street sections are not over engineered. Further secondments from CEC agreed to supplement tie ltd resources.	Marshall Poulton	£30,600,000	£12,100,000