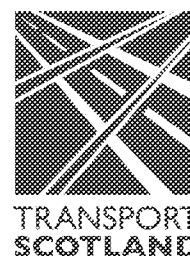


Edinburgh Tram Network Funding and Governance



1. Introduction

This paper is intended to provide an outline of the key issues that have been identified for the Edinburgh Tram following last week's decision in Parliament. These are agreed as requiring either subsequent decision by ministers in order that they can be formally negotiated and agreed with City of Edinburgh Council / tie

2. Background

Last week, Parliament successfully opposed minister's expressed wish regarding the cancellation of the Edinburgh tram project. This ensured that the Executive continued to support the project "to the limit of the previous administration's funding limit". Ministers subsequently committed the Executive to this decision but then went on to say that,

- a) the funding support would be capped at £490m "and no more" and
- b) affirmed that the Tram project "was the City of Edinburgh's - not the Executive's".

Accordingly the Projects Team together with Jerry Morrissey and Damian Sharp met last week to analyse what these two decisions mean for Transport Scotland and future management of the project. This paper sets out the outcomes reached on the following key issues that were identified. There may be others but we consider these to be the most important

3. Overall Funding:

Following the Parliamentary decision and ministers' statement, neither the future funding nor the level and style of project management are clear to the project management team. Mr Swinney's remarks that he took Parliament's decision to mean £490m and not a penny more appears to be slightly at odds with the Parliament's decision to sustain the previous administration's decision which essentially provided £375m indexed to provide between £450m to £500m limited to achieving tramline 1a as per the Draft Final Business Case. However this can be determined in a number of different ways and at different points to achieve differing levels of indexed funding. The option which ministers seized on cites an expected indexed total support requirement of £490m, however this is not necessarily what Parliament wish to see delivered and the following differing scenarios offer varying degrees of consistency with both positions.

- a) Fix £375m indexed to expect between £450m - £500m towards overall cost of project depending on inflation, on receipt of a robust Final Business Case.

- b) £375m recalculated on the new baseline programme for 1a to be delivered @ July Tram Project Board.
- c) Recalculate at financial close.
- d) A flat support fixed at £490m (or £500m).

Option a) is the rationale previously applied by Transport Scotland and is based on the estimated costs in the DFBC. This is where we believe this option on indexation will deliver the £490m and that this will be open to challenge dependant as being short of the £500m limit of the DFBC. That apart it is also open to inflation risk and is therefore not consistent with ministers' expressed wish to ensure that the promoter carries all risk beyond the agreed limit of funding.

Option b) is more likely to produce a fairer reflection of an indexed limit and should remain consistent with both ministers' and Parliament's wishes and represents the closest match to the DFBC calculations.

Option c) is also consistent but the overall costs are likely to be even more expensive than Option 2 given the base would then be open to even greater inflation risk. It is therefore not supportable at this stage

Option 4 has some attractions and is now apparently receiving support from CEC and tie, but there is an accompanying expectation from the promoter that there would then only be a very minimal engagement / oversight from Transport Scotland. While this may be attractive to them I cannot envisage a project funded to this scale by the public purse being managed at such a distance and with such a hands-off approach..

4. Transport Scotland Role and Engagement

Following on from the question of funding limits, ministers also made it perfectly clear that this is a CEC project not the Executive's. We have therefore assumed that our role has now changed from being that of a fully supportive and promoting funding partner to that of major funder or banker. Given minister's strength of opinion on the project and accompanying comments on capped funding, this has implications for the style and level of management that we see Transport Scotland assuming responsibility for. Accordingly, we reviewed a series of options on the continuing role of TS.

- a) Continue as before but as "banker" with engagement only on financial aspects but without any promotional support
- b) Continue as above but with a more removed engagement involvement and with a much more robust governance, financial control.
- c) As "Banker" only – a "hands of distant role focussing on payment of grant against milestone delivery only.

We recommend that we should no longer assume the supportive / promotional role as before, particularly in support and providing re-assurance to respective bidders. Rather we consider that TS role should now be as the project "Banker" however the overall issues of affordability etc also require stricter / shortened governance measures – these are seen as important to protect ministers' and Parliament's interests.

5. Affordability

Parliament's decision highlighted by Mr Swinney's subsequent comments, make it clear that beyond the overall Executive funding limit (as above) all risk is to be borne by CEC. The full impact of this has yet to be formally acknowledged by either the promoter or tie and we have received mixed messages on this. We should however anticipate that this may be initially very attractive but more problematic if they cannot control scope and programme. Ultimately that may mean the promoter will be forced to consider either additional funding or scope reduction. While scope reduction in such circumstances would clearly then be a matter for the promoter alone, TS must be aware of the overall impact such a decision may have. E.g. while TS would not be too concerned about a reduction of the route commencement from Newhaven to Leith or delivering St Andrew's Sq - Airport only – (though TS might then argue for a commensurate reduction in funding) we could not countenance supporting Leith to Haymarket only.

6. TROs

Transport Scotland has already agreed to amend the regulations to effect a more efficient way for the promoter to achieve the necessary TRO's without recourse to unnecessary appeals / hearings. This is a key identify risk on the critical path that we have already agreed to manage. To retain consistency and remove this as a potential area of unnecessary influence / challenge by CEC, we should maintain this course of action and invite Chief Executive to write accordingly to John Ewing seeking assurance on progress of this workstream.

7. Immunisation:

Transport Scotland has already agreed to manage this with Network Rail obo tie in parallel with Airdrie to Bathgate signalling works. A paper on this is imminent containing estimated costs for the tram works element of £6m which it is proposed be transferred to the Airdrie to Bathgate budget from the overall Tram capped funding element. We propose that this solution should continue. It is an area of risk and project output that is more efficiently handled internally than left to tie and as above removes another area of potential grief from CEC.

8. Recommendations

a) Funding: On basis of above, Option b is the most likely to deliver the optimum chance of matching ministers' wishes and Parliament's whilst achieving agreement of the promoter. Delivering a flat agreed level of funding has some attractions especially regarding risk avoidance but there are risks in doing so ahead of a fresh calculation on the basis of the revised programme that is due to be delivered to Transport Scotland later this week, or the delivery of the Final Business Case, early next year. Ministers however must advise on their preferred option bearing in mind Parliament's decision.

b) Role and Engagement of Transport Scotland: We argue that the recent clearance on project governance etc by Audit Scotland is a clear reflection of the project oversight and management that Transport Scotland has maintained to date. Against the argument for its removal we also consider that sound control financial control and public probity should remain our priority and be safeguarded through continuing engagement, regardless of the promoter's wishes but this must be balanced against the redundant need for the higher level supportive and promotional role that we have previously adopted. This may be a decision that

can be made within Transport Scotland but we recommend that ministers are advised accordingly.

c) TROs Transport Scotland has already agreed to assist the promoter through amendment of the regulations to effect a more efficient way for the promoter to achieve the necessary TRO's without recourse to unnecessary appeals / hearings. This should continue to be delivered.

d) Immunisation: Transport Scotland has already agreed to manage this with Network Rail obo tie in parallel with Airdrie to Bathgate signalling works. A paper on this is imminent containing estimated costs for the tram works element of £6m which it is proposed be transferred to the Airdrie to Bathgate budget from the overall Tram capped funding element. To the fore in reaching this decision is the increased difficulty and certainty of delivery that the promoter, by comparison, would have. We recommend that the agreement stand and the work-stream to deliver the requisite tram / rail immunisation be continued by Transport Scotland on behalf of the promoter.

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