

PROTECTIVE MARKING: Restricted Advice to Ministers

From: John Ramsay
Rail Delivery
Transport Scotland
21 January 2010

Minister for Transport, Infrastructure and Climate Change

EDINBURGH TRAM:- MR STEVENSON'S MEETING WITH RICHARD JEFFREY, CHIEF EXECUTIVE OF TIE. LTD, 25 JANUARY 2010

Purpose

1. To provide a briefing for the Minister ahead of his meeting with Richard Jeffrey, scheduled for Monday 25 January 2010.

Priority

2. **Routine:** You have agreed to meet Richard Jeffrey at 13:30 PM in your offices at Victoria Quay to discuss current project difficulties and future options to deliver the Edinburgh Tram Project. Richard Jeffrey will not be accompanied.

Background

3. The Minister will recall that he last met Richard Jeffrey, together with Jenny Dawe, Leader of Edinburgh City Council, on 2 December 2009. Richard Jeffrey had cautioned that while there had been some signs of improvement, the difficulties remaining should not be underestimated. Richard Jeffrey followed this up with further briefing to Transport Scotland, the key points of which were set out in our briefing to Ministers on 22 December 2009.

Issue

4. Against a position where recent adjudication decisions have been made (mostly against tie) and disappointing physical progress by the contractor since beginning of January, Richard Jeffrey has advised Transport Scotland that he has held separate discussions with both Siemens and Bilfinger Berger in early January to discuss the deteriorating situation. These proved inconclusive and the Tram Project Board now wishes an end to the continuing uncertainty with BSC. It has set a deadline for reaching a commercially agreed programme with BSC as mid March. Meantime, the Tram Project Board has requested that tie undertake an assessment of the available options in the event that a suitable agreement cannot be reached.

Costs

5. CEC has advised that in the absence of any cost impact of contractually agreed programme and supplemental agreement for on-street works, the impact on overall costs on final costs remains unquantifiable. Accordingly the Council is maintaining their previous final cost estimate of circa £580m.

Richard Jeffrey has advised Transport Scotland that in his view the impact of current negotiations and adjudication decisions together with the limited progress indicated that final costs could be over £600m.

6. Given the status of the current negotiations, adjudications and the outstanding commercial costs yet to be agreed for both the recovery programme and any On-Street Agreement, Transport Scotland is now of the view that it is highly unlikely that Phase 1a (Newhaven to Airport) will be able to be completed within available funding and that it is reasonable to expect that the final costs will be significantly in excess of £600m. The Council to date have confirmed that they are able to fund any excess over current £545m affordability up to £600m through prudential borrowing supported by Prudential Borrowing funded through TEL Profits and inclusion of borrowing costs funded through the Council's long term financial plan.
7. The Minister will wish to be aware that there is a formal Financial Agreement underpinning the capped grant support for this project. One option available to Ministers is the issue of a "Cure Notice" to the City of Edinburgh Council calling for formal report to Transport Scotland on how it actually intends to achieve a conclusion to the current dispute, when and at what cost. Given the current situation likely to be outlined to the Minister by Richard Jeffrey, this option could be readily deployed thereafter.

Recommendations:

The Minister is invited to note that;

- Tie continues to experience severe problems with BSC in reaching an overall commercial settlement to the contractual disputes that are affecting the project and has been set a timescale of end of March 2010 to achieve an overall settlement.
- Given current levels of uncertainty and tie's advice regarding future costs, Transport Scotland believe it reasonable to expect that final costs will now be significantly in excess of £600m.
- The meeting with Richard Jeffrey affords the Minister an opportunity to express the growing concern of the Scottish Government.

John Ramsay

Rail Delivery, Transport Scotland

Ext:
Mob



Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Secretary for Finance and Sustainable Growth					X
Minister, for Transport, Infrastructure and Climate Change			X		

Comment [A1]: Annex D of the Guidance on Preparation of Minutes to Ministers provides advice on the construction of copy lists – including a flow chart which provides an easy-to-use mechanism for applying the guidance. For Ministers, mark the relevant box (or boxes) with an 'X' to indicate why the Minister is being copied in. Where a paper contains details of Financial Implications, the Minister for Finance and Public Services must be included on the copy list – and the Portfolio Interest box should be marked with an 'X'. Delete any unused rows or insert additional rows if required. For officials, include details of their Department and Division. Only use group names in copy lists if there is a relevant e-mail distribution list.

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Comment [A2]: Click in the field below and then click on Option(s) from the toolbar to select a pre-set copy list. Note that you may choose any combination of Options. However, since Options 2 and 3 are subsets of Option 1 you should NOT select Options 2 or 3 if you have already selected Option 1. **OPTION 1 - Ministers:** Select this option if the minute relates to a matter which is, or may become, the subject of significant media interest. **OPTION 2 - Ministers:** Select this option if the minute conveys advice on a significant or sensitive policy issue and you have not already selected Option 1. **OPTION 3:** Select this option if there are significant or sensitive presentational issues and you have not already selected Option 1. **OPTION 4:** Select this option if there are significant financial implications. Once you have selected the relevant options, you will need to complete any variable fields within the pre-set lists (eg 'Relevant Press Office Desk'). If you select more than one option, please re-order the names appropriately and check for duplicates. Remember that ALL minutes to Ministers should ALSO be copied to other Ministers with an interest, PS/Relevant Departments, Relevant Group Heads, Relevant officials in other areas and relevant Special Advisers. More detailed guidance on the construction of copy lists is set out in Section 5 of the Guidance on Preparation of Minutes to Ministers.