

Transport Edinburgh

Edinburgh Trams

Lothian Buses

Tram Project Board Report on Period 6 Papers for meeting 24th September 2008

9:00am – 11:00am

Distribution:

Members and attendees

David Mackay (Chair)

Willie Gallagher

Bill Campbell

Stewart McGarrity

Julie Thompson (minutes)

Neil Renilson

Dave Anderson

Steven Bell

Graeme Bissett

Donald McGougan

Cllr Phil Wheeler

Alastair Richards

Marshall Poulton

In addition – for information only

Cllr Maggie Chapman

Cllr Allan Jackson

Kenneth Hogg

Keith Rimmer

Norman Strachan

Iain Coupar

Susan Clark

Cllr Gordon Mackenzie

Cllr Tom Buchanan

Peter Strachan

Duncan Fraser

Rebecca Andrew

Alan Coyle

Gregor Roberts

Brian Cox

Neil Scales

Frank McFadden

Dennis Murray

Jim McEwan

Tony Glazebrook

TRAM PROJECT BOARD

Transport Edinburgh

Edinburgh Trams

Lothian Buses

FOISA exempt
 Yes
 No

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Agenda Tram Project Board

Brunel Suite – Citypoint, 2nd Floor

24th September 2008 – 9.00am to 11.00am

Attendees:

David Mackay (Chair)

Willie Gallagher

Bill Campbell

Stewart McGarrity

Neil Renilson

Dave Anderson

Marshall Poulton

Steven Bell

Donald McGougan

Cllr Phil Wheeler

Graeme Bissett

Alastair Richards

Julie Thompson (minutes)

Apologies:

- 1 Review of previous minutes and matters arising
- 2 Presentation
- 3 Project Director's progress report for Period 6
 - Status report on building fixings
 - Branding and launch of Tram
- 4 Health and safety – update
- 5 Change requests / risk drawdown
- 6 Phase 1b / Gogar interchange / Line 3
- 7 Risk
- 8 Date of next meeting
- 9 AOB

Edinburgh Tram Network Minutes

Tram Project Board

27th August 2008

tie offices – Citypoint II, Brunel Suite

Members:			
David Mackay (Chair)	DJM	Bill Campbell	WWC
Cllr Phil Wheeler	PW	Neil Renilson	NR
Dave Anderson	DA		
In Attendance:			
Steven Bell	SB	Alastair Richards	AR
Jim McEwan	JMcE	Gregor Roberts	GR
Duncan Fraser	DF	Elliot Scott (minutes)	ES

Apologies: Willie Gallagher, Graeme Bissett, Stewart McGarrity, Donald McGougan and Marshall Poulton

1.0	REVIEW OF PREVIOUS MINUTES	
1.1	1.1. The safety leadership initiative is being developed with Infraco and SB will update the TPB on the plan for implementation in September and the new Head of Safety will update the October TPB.	SB
1.2	1.2. The contract details were put onto the website during Period 5.	
1.3	1.3. A paper on the CDM arrangements was presented to the tie Board on 13 th August. SB can provide further information if required to TPB members.	
1.4	1.4. SB to report back to the Board in the September TPB regarding DMcG's query about when the project team would have a better view of the MUDFA risk allowance as this would aid in the decision making process for Phase 1b.	SB
1.5	1.5. The close out plan for aligning Infraco proposals with the SDS design (particularly roads and OLE) is being finalised and SB will report to the September TPB on the associated programme and costs.	SB
1.6	1.6. SB updated that discussions have been held between himself and MP regarding the traffic calming north of Haymarket Terrace. Currently there is £200k available. MP and SB to continue discussions and report to the September TPB.	MP / SB
1.7	5.2. The management arrangements for the Fastlink change have been agreed.	
1.8	7.1. The quote for Public Realm works from BSC is being reviewed by Frank McFadden. DA / DF agreed to review the proposals for the works to determine if it can be delivered in phases.	DA / DF
1.9	7.2. The enforcement issue has been followed up by DF.	

2.0	Presentation and review of PD's report	
2.1	<u>Overview</u> JMcE gave an overview of current progress, focusing on Infraco mobilisation. SB added that the tie management team are very focused on the issue; although progress has been made in some areas, other areas still need unblocking. JMcE thanked CEC for the support given to the approvals process.	
2.2	<u>Safety</u> SB outlined the current safety statistics, which are improving and compare well with external benchmarks. He qualified this by stating that there was not as much progress as anticipated on civils work.	
2.3	SB also outlined the results of the audit on Leith Walk MUDFA works and that a senior Carillion Manager has been dealing with the resulting actions. The two outstanding actions were not "red flag" issues. Further progress will be reported to the September TPB.	SB
2.4	DF added that CEC will be completing an audit on the roads as they are handed back to ensure that they are "fit for purpose".	
2.5	<u>MUDFA</u> SB gave an update on the progress on the MUDFA works outlining areas that had been done well and those where there were issues.	
2.6	Key areas highlighted included the commencement of the Phase 1 traffic management arrangements at Haymarket and SB thanked the Traffic Management Review Panel, Lothian Buses and CEC for their support. NR stated that it had gone as well as could be expected, adding that lessons learned from the West End had been implemented.	
2.7	SB acknowledged that productivity was increasing but was still not at the level expected. He added that Carillion had finally accepted that changes were needed, both in personnel and delivery and that these were being implemented. SB and his colleagues were carefully recording detailed dates for future protection against potential prolongation claims (this also applies to 2.14 and 2.15 below).	
2.8	Areas that still need attention include: <ul style="list-style-type: none"> • Reinstatement assurance; • Traffic management; and • Programme. 	
2.9	<u>Tramco</u> NR and AR gave an update on Tramco progress and outlined the functions of the mock-up. Current progress is on schedule, with the challenge being the integration of the features of the Edinburgh Tram with previous designs.	
2.10	DF volunteered to follow up with CEC planning to ensure that the planning permission for the mock-up is received in time.	DF
2.11	PW added that Forth Ports had expressed a desire to have the mock-up at Ocean Terminal.	
2.12	<u>Design and consents</u> SB gave an update on the current status of design and consents and the issues being faced. Generally progress is positive and tie continues to work with SDS and CEC to achieve the relevant approvals. Key areas of concern include Forth Ports and roads Technical Approvals.	

2.13	A separate issue of TRO drawings not being provided was escalated with the COO of Parsons Brinckerhoff. SB stated that this has not affected the strategy presented to the previous Board meeting.	
2.14	<u>Infraco</u> SB summarised the positive and negative points of Infraco progress to date. Following a meeting between tie and the principals of the consortium an agreed plan was laid out of the impact of the design delay, the slow mobilisation and the potential opportunities for integration. tie has completed its assessment but Infraco has yet to complete elements.	
2.15	DJM questioned whether the slow mobilisation was a strategy Infraco were employing. JMcE stated that they are stretched management wise and that the subcontractors are wary of signing up "back-to-back" to the Infraco contract. DJM re-iterated that it is the reputation of CEC and tie that will be damaged, not that of the contractor should there be issues with prolongation. SB and JMcE stated that they were acutely aware of the potential reputational impact and that there is a review planned with R Walker on the week commencing 1 September. SB agreed to keep the Board updated with progress between now and the September TPB.	SB
2.16	<u>General progress</u> SB outlined to the Board the good progress made on the building fixing agreements and committed to distribute the FAQs to the Board members. He added that up to 20 (out of 400) would progress through the Sheriff Court.	SB
2.17	<u>Finance</u> GR outlined the current financial position – no change in the AFC (£512M) but further slippage in the current year spend (MUDFA and Infraco progress and ScotRail carpark compensation) that he expected catch up by March 2009. SB noted that £7M of risk was included in the current outturn. As stated by SMG at the previous Board meeting, a review of the outturn will be completed by the end of Period 6.	
2.18	The risk drawdown of £1.37M for the A8 sewer, as previously delegated to SB and WG, was completed during the period. SB also stated that the £595k for the measures needed for the early adoption of the guided busway would be covered from the wide area network allowance, not agreed risk as previously proposed.	GR / SB
3.0	Enhanced response management for unplanned traffic delays paper	
3.1	DF outlined the proposal and recommendations of the paper to the Board. DA committed to working with Lothian Buses and TEL to ensure that the city keeps moving.	
3.2	The Board agreed in principal with the paper and approved the expenditure of £40k pa for up to 2 ½ years, subject to a revision of the paper stating that the contract is needed due to the extent of the tram works (both Infraco and MUDFA) and acknowledge the work that CEC have already completed.	DF

4.0	Phase 1b	
4.1	AR outlined progress on patronage and financial modelling since the last TPB. He stated that, although a significant amount of work has been done by CEC, tie , TEL and the Joint Revenue Committee, the results are interim only and are subject to change. The October TPB is now the target.	
4.2	Both NR and WWC commented that the interim results passed their “sanity test” of what would be expected in terms of patronage and costs.	
4.3	Discussion centred around the potential sensitivity analysis to perform including RPI and increases above RPI for yield and fuel, labour and electricity prices.	
4.4	DJM summarised that the only certainty is that none of the assumptions will be correct and that the biggest immediate imponderable is the capital cost of Line 1b and how it will be funded.	
4.5	AR committed to providing a consolidated report of the outputs of the models for the September TPB.	AR
4.6	DF raised the issue of the November CEC deadline for the report and SB responded that there was flexibility on the timing of instruction regarding 1b utility diversion.	
5.0	Risk	
5.1	SB gave a brief summary on the current position and the work done during the period to develop the Infraco risks, especially the treatment plans. More work will be done during Period 6 to produce a more balanced picture of the project risks for the September TPB.	SB
5.2	SB also stated that the schedule QRA should be completed by the October meeting.	SB
6.0	Stakeholder communications	
6.1	SB stated that as the embargo was coming to an end, major work will start in September and that detailed management of Leith Walk stakeholders is continuing.	
7.0	AOB	
7.1	DJM requested that WWC / PW / DF meet to resolve the Haymarket bus / taxi priority issue and report to the next TPB. It was noted that the current design has taken priority and any change may incur delay / additional costs.	WWC / PW / DF
7.2	Date of next meeting on 24 September 2008.	

Prepared by Elliot Scott, 27th August 2008.

Project Directors report

HSQE

There were no RIDDOR incidents in the Period and the AFR for the project is continuing to reduce and is now 0.09 with 106,600 hours worked in the period. This compares well to selected industry benchmarks (shown in section 6). Continued focus is being applied to ensure a range of initiatives are implemented to maintain this trend.

Programme

Overall progress remains behind the master programme. This is due primarily to:

- Design slippages V26 / V31 at time of Contract Close;
- Design slippage since novation of design to Infraco (now at V35); and
- Slow mobilisation of Infraco

Whilst a straight import of the progressed programme into the master programme forecasts a potential revenue service slippage of up to five months, **tie** is confident that sufficient float and false logic constraints exist in the programme, along with methodology improvements, to maintain OPEN for Revenue Service as July 2011 with a range of May 2011 to December 2011. A detailed breakdown of this potential slippage and opportunities to recover is being produced and will be incorporated in the Period 7 report.

A robust and realistic four-month detailed construction programme has now been agreed with BSC. The milestones to be achieved are outlined in section 4.3. Whilst BSC deliver on the activities within this programme, work will proceed with agreement of a revised contract programme. This revised programme will incorporate opportunities to recover these initial delays. These opportunities include use of additional resources, improved productivity, use of alternative technology for OLE installation and track-laying and better use of integrated traffic management. It is anticipated that this work will be complete with a revised Infraco contract programme and overall revision to the Tram Master Project Programme will ready by the end of this calendar year. Infraco proposals for recovering the effects of their slow mobilisation will be included within the revised programme.

Additionally, the MUDFA Rev07 programme is almost finalised and this will be reflected in the overall update to the Tram Master Project Programme. Any commercial impact of revised programmes will be addressed in line with the final agreement of those programmes.

Progress – Design

SDS road design submissions have slowed as they incorporate necessary CEC comments. CEC have performed well at turning around approvals. BSC management of SDS is being challenged to ensure sufficient focus. The following table identifies outstanding approvals.

Phase 1a only	Submitted to CEC		Granted by CEC		% complete	% of plan
	v31	Actual	v31	Actual		
Prior approvals (52)	52	47	50	39	75%	78%
Technical approvals (73)	71	64	46	41	56%	89%
IFC (submitted to tie) (86)			64	47	55%	73%

Phase 1a and 1b	Submitted to CEC		Granted by CEC		% complete	% of plan
	v31	Actual	v31	Actual		
Prior approvals (70)	70	64	68	56	84%	82%
Technical approvals (95)	93	86	67	61	64%	91%
IFC (submitted to tie) (117)			94	74	63%	79%

Two additional IFCs have been identified for additional works (not incentivised). Key design areas affecting critical path are identified within the main report.

Progress – MUDFA

Carillion has appointed a new Project Director as a result of tie's management intervention to address Carillion's poor performance. Over the past period an improvement in management approach has been noticeable and improved outputs are expected as a direct result.

Progress – Infraco (including Tramco)

Summary against the agreed milestones is shown in the table below (number of milestones)

	Period			Cumulative		
	Planned	Achieved	%	Planned	Achieved	%
Prelims	3	3	100%	18	18	100%
Construction	19	0	0%	54	0	0%
Total	22	3	14%	72	18	25%

Issues with slow mobilisation have been discussed. However, work has commenced on a number of worksites including Haymarket Viaduct, Edinburgh Park Viaduct and A8 underpass all commenced. Detailed progress reporting on the four-month construction programme will be in all future period reports.

The Tram mock-up is on programme.

Progress – Other

Pollution prevention works at the Scotrail Haymarket depot are reported to be on the NR programme for completion in November 2008.

Construction works for the relocation of the Murrayfield training pitches are progressing with approximately one week's slippage reported due to bad weather. The contractor aims to recover this over the next two periods.

Cost

The AFC for Phase 1a of the project remains unchanged from last period at £512m, including a revised risk allowance of £28.9m (up £0.5m from Period 5 see below). Funding available remains at £545m.

Cumulative expenditure to date (end of P6 08/09) on Phase 1a is £177.4m. COWD year to date, at £47.4m, is £11.5m lower than the 'budget' for the year to date. This is primarily due to delayed closure of the Infraco contract suite, slow Infraco mobilisation and delayed completion of land acquisition costs.

The FY08/09 outturn forecast has been reduced by £11.8m and now stands at £138.8m including a revised conservative risk allowance of £8.0m.

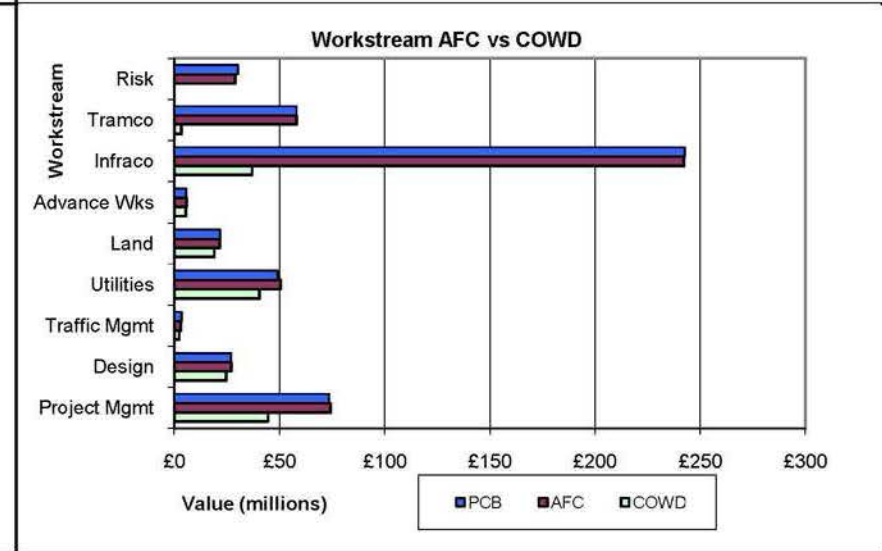
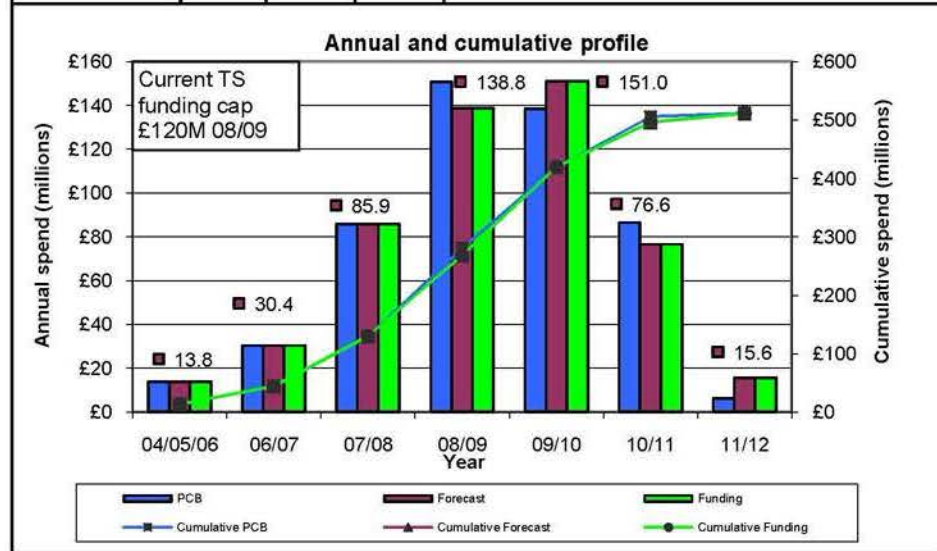
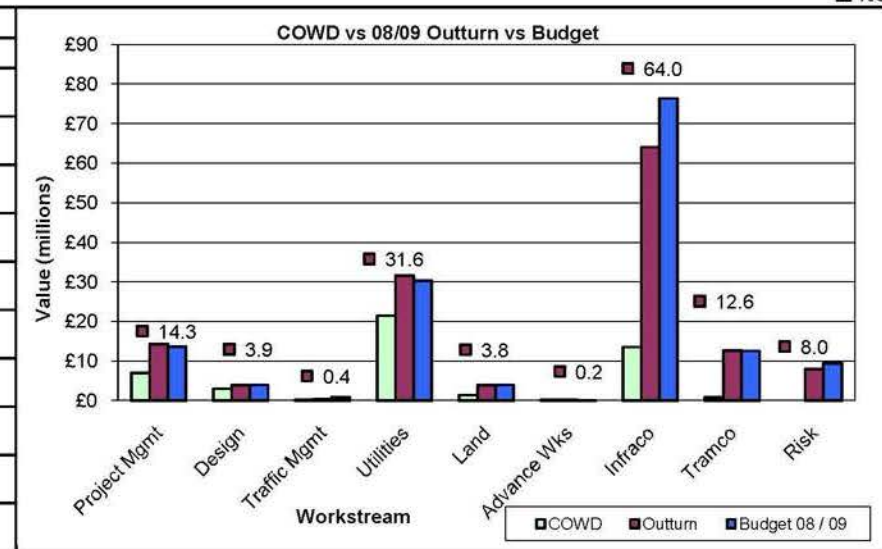
The current 12-week look ahead of the Infraco programme has established a revised position to the end of December 2008, which incorporates a realistic forecast linked to the completion of key milestone activities. Further detailed analysis of the programme, including discussion with the Infraco contractor is in progress to confirm the full year programme up to the end of March 2009. The completion of this exercise in Period 7, together with the finalising of the MUDFA Rev07 programme, will provide better confidence of the new full year forecast. However, early indications are that the current year end figure of £138.8m should be treated as an interim position, with the understanding that it may be further reduced next period.

Transport Edinburgh
Edinburgh Trams
Lothian Buses

FOISA exempt

Yes
 No

Period 6 - 08/09 COWD (£000s)				
Workstream	F/cast	Act	Var	Comments
Project Mgmt	1,159	1,048	(111)	Over accrual for Netwk Rail Interface, & Insurance claims
Design	247	219	(28)	Over accrual for construction support
Traffic Mgmt	24	(30)	(54)	Over accrual in JRC contract
Utilities	2,846	1,370	(1,475)	Adoption of Rev 7 programme/impact of city centre August embargo under estimated (re-mobilisation).
Land	1,864	179	(1,685)	Protracted negotiations with Netwk Rail & Scotrail
Advance Wks	41	48	7	
Infraco	2,201	910	(1,290)	Slow progress milestones planned/achieved 25/3.
Tramco	148	0	(148)	Depot Equipment moved out to next period
Risk	0	0	0	
Total	8,529	3,744	(4,785)	As above



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Based on the revised outturn above, the TS share of Phase 1a costs in FY08/09 at 91.7% (500/545) would be between £120m of Base Costs excluding risk allowance or £127m of the total costs, including Risk Allowance. This is being kept under review in the context of FY0809 funding allocated to the project by TS of £120m.

Risk

In the Period 5 report it was stated that £0.6m of contingency was to be drawn down to fund additional traffic management requirements which will arise when Infraco assume control of the Guided Busway in November 2008. Subsequently, it was determined that this work will now be funded from the Infraco provisional sum for wide area network measures.

The detailed development of the Infraco element of the Project Risk Register and associated treatment plans has progressed well in Period 6 and the QRA will be updated in Period 7. Four broader risks with potential to impact the Infraco works have been highlighted and are being treated:

- Infraco unable to commence works or work is delayed or disrupted (includes mobilisation by Infraco, conflicts with utilities work completion and traffic management interface requirements);
- Changes to the final design during approvals / final design completion (the design and consents task force provides focus and control for identifying and addressing any such items);
- "Partnership" approach between **tie** and BSC is not effective with the potential to impact third party relationships (**tie** continue to lead and engage with the Consortium Directors and their parent companies in addition to effectively measuring and reviewing BSC engagement with third parties); and
- Shortage of competent resources within BSC to effectively deliver the Infraco works (key personnel recruitment, mobilisation and performance is being scrutinised and formally tracked to ensure BSC are addressing any areas of weakness).

Communications

The team has been working closely with stakeholders throughout the route regarding all upcoming tram works through notifications, face to face engagement and website updates. Particular focus has been on the upcoming utility diversions at The Mound and city centre and the preparation for the tram works on Leith Walk.

The TRO design presentations will start on 23 September. The presentations are divided into four areas: Newhaven, Leith Walk, city centre and the West End and beyond. This process is being led by CEC with **tie** facilitating.

The closing date for applications for the Small Business Support Scheme was 31 August 08. Over £1.5 million has been paid out to local businesses and, following a meeting on 25 September, a decision will be made as to how best deploy the remaining resources available to the business community.

Period 6- 2008/09 Primary Risk Register

ARM Risk ID	Risk Description			Risk Owner	Significance	Black Flag	Treatment Strategy	Previous Status	Current Status	Due Date	Action Owner
	Cause	Event	Effect								
916	CEC do not achieve capability to deliver	CEC are unable to honour their funding commitment	Potential showstopper to project if contribution not reached; Line 1B may depend on incremental funding from CEC	S McGarrity		Project	CEC has formed a multi discipline Tram Contributions Group to monitor identified sources of £45m contribution including critically developers contributions. tie are invited to that group. (see add info)	Complete	Complete	28-Sep-07	CEC
							CEC to deliver necessary contributions for 1a	Complete	Complete	28-Aug-07	CEC
							Tram Project Board to monitor progress towards gaining contributions	Ongoing	Ongoing	Ongoing	D Mackay
139	Utilities diversion outline specification only from plans	Uncertainty of Utilities location and consequently required diversion work/ unforeseen utility services within LoD	Increase in MUDFA costs or delays as a result of carrying out more diversions than estimated	G Barclay	High - 25.00		Carry out GPR Adien survey	Complete	Complete	31-Oct-07	J Casserly
							Identify increase in services diversions. MUDFA to resource/re-programme to meet required timescales.	Complete	Complete	23-Nov-07	J McAloon
							In conjunction with MUDFA, undertake trial excavations to confirm locations of Utilities and inform designer	On Programme	On Programme	Ongoing	A Hill
164	Utilities assets uncovered during construction that were not previously accounted for; unidentified abandoned utilities assets; asbestos found in excavation for utilities diversion; unknown cellars and basements intrude into works area; other physical obstructions; other contaminated land	Unknown or abandoned assets or unforeseen/contaminated ground conditions affect scope of MUDFA work.	Re-design and delay as investigation takes place and solution implemented; Increase in Capex cost as a result of additional works.	I Clark	High - 25.00		Carry out GPR Adien survey	Complete	Complete	31-Oct-07	J Casserly
							Identify increase in services diversions. MUDFA to resource/re-programme to meet required timescales.	Complete	Complete	23-Nov-07	J McAloon
							In conjunction with MUDFA, undertake trial excavations to confirm locations of Utilities and inform designer	On Programme	On Programme	Ongoing	A Hill

ARM Risk ID	Risk Description			Risk Owner	Significance	Black Flag	Treatment Strategy	Previous Status	Current Status	Due Date	Action Owner
	Cause	Event	Effect								
31	Mudfa delay in diversion works due to lack of BT resources	Bankhead Drive Retaining Wall: BT and Easynet diversion work not completed till end Jan 09 - work was due to start mid-June 08	Delay and disruption to programme.	T Cotter	High - 25.00		Site visit with Infraco PMs and Mudfa to assess interface issues between services and structure		On Programme	01-Aug-08	T Cotter
30	Mudfa delay in diversion works due to lack of BT resources	South Gyle Access Bridge: BT diversion work not completed till end Sept 08 - work was due to start mid-June 08	Delay and disruption to programme.	T Cotter	High - 25.00		Site visit with Infraco PMs and Mudfa to assess interface issues between services and structure		On Programme	01-Aug-08	T Cotter
173	Uncertainty over extent of contaminated land on route	Tramway runs through area of previously unidentified contamination and material requires to be removed and replaced (dig and dump).	Increase in costs to remove material to special and other tip.	B Bell	High - 23.00		Issue contamination and geotechnical report to Infraco bidders	Complete	Complete	2-Mar-07	B Dawson
							tie to obtain ground investigation and contamination reports from SDS	Complete	Complete	30-Mar-07	A McGregor

ARM Risk ID	Risk Description			Risk Owner	Significance	Black Flag	Treatment Strategy	Previous Status	Current Status	Due Date	Action Owner
	Cause	Event	Effect								
44	SDS contractor does not deliver the required prior approval consents in line with SDS v31	Late prior approval consents	Delay to programme with additional resource costs and delay to infraco. Impact upon risk balance.	D Sharp	High - 23.00		Evaluation of prior approval programme	On Programme	On Programme	31-Oct-08	D Sharp
							Hold fortnightly Roads Design Group	On Programme	On Programme	Ongoing	T Glazebrook
							Twice-weekly meetings of Approvals Task Force	On Programme	On Programme	31-Oct-08	D Sharp
							Informal consultation prior to statutory consultation	On Programme	On Programme	31-Jul-08	T Glazebrook
							Integrate CEC into tie organisation/accommodation (office move)	Complete	Complete	4-Jun-07	T Glazebrook
13	Possession cancelled or tie stop being possession owner	Loss of disruptive or RotR possession	Could prevent critical work being completed, i.e. a bridge installation. For RotR possession there would be a delay in completing the works	W Biggins	High - 22.00		tie needs to identify critical possessions tied into Infraco's programme and then highlight them to NR		On Programme	01-Sep-08	W Biggins
928	Major single safety incident (including a dangerous occurrence) during construction	Safety incident during construction	Delay (potentially critical) due to HSE investigation and rework. PR risk to tie and stakeholders.	F McFadden	High - 21.00		All Site Staff to get CSCS or equivalent	On Programme	On Programme	Ongoing	C McLauchlan
							Develop and Implement Incident Management Processes	Complete	Complete	27-Apr-07	T Condie
							HSQE Audits, site inspections and Management Safety Tours to be carried out	On Programme	On Programme	31-Dec-10	T Condie
							Safety Induction to be carried out for all site staff	On Programme	On Programme	31-Dec-10	T Condie
							Site Supervisors to be appointed by tie	Complete	Complete	28-Feb-07	S Clark

ARM Risk ID	Risk Description			Risk Owner	Significance	Black Flag	Treatment Strategy	Previous Status	Current Status	Due Date	Action Owner
	Cause	Event	Effect								
1033		Failure of Infraco to mobilise in time to commence work in line with programme.	Delay to programme. Cost overruns. Negative publicity. Criticism from stakeholders	S Bell	High, 13/20		Continued focus at Infraco progress meetings as well as programme workshops to mitigate the impacts of any delay	N/A	On Programme	1-Oct-08	S Bell
							Implementation of Advanced Works programme in order to mitigate potential future issues during construction	On Programme	On Programme	1-Aug-08	R Bell
							Infraco given instructions to proceed at risk	On Programme	On Programme	1-Aug-08	R Bell
							Pressure from Approvals Task Force to ensure Technical and Prior Approvals are delivered	On Programme	On Programme	1-Oct-08	D Sharp
48	Mudfa do not finish diversion works prior to Infraco commencing work	Infraco are unable to commence work or work is delayed/disrupted	Delay and disruption claims from Infraco.	F McFadden	18		Infraco attendance at Traffic Management meetings. Weekly meetings between tie Infraco and Mudfa PMs. 4-weekly tie Infraco/Mudfa management meetings. Identification of programme clashes between Infraco and Mudfa works tracked by tie planner.	N/A	On Programme	1-Dec-08	F McFadden
50	Lack of effective engagement from BSC leaders towards tie and third parties (NR, BAA, Forth Ports)	Failure of 'partnership' approach between tie and BSC. Failure to maintain effective third party relationships with key third parties.	Lack of co-operation and understanding from key third parties causes delay and disruption.	F McFadden	18		Engagement between tie and BSC at different levels. Regular review of BSC management of third parties as per Employers Requirements..	N/A	On Programme	1-Dec-08	F McFadden
51	Failure of BSC to effectively 'resource up' for project	Lack of competent resources within BSC to safely and effectively deliver Tram project	Delay to programme and additional cost	F McFadden	18		Ongoing review of BSC resources and formal review at 4-weekly meeting. Objectives to be set for BSC at monthly meetings in order to monitor progress.	N/A	On Programme	1-Dec-08	F McFadden

Paper to: TPB **Meeting date:** 24/09/08
Subject: Project Change Control Update – Period 6, 2008/09
Preparer: D Carnegy

Executive summary

This paper is intended to update the Tram Project Board with the current status regarding approved change orders and their implications on the overall Tram Project Budget.

The table below summarises the approved project changes that have financially impacted the project risk allowance since Financial Close in May 2008.

PERIOD 6 UPDATE - 2008/09

Change Owner/Originator	PROJECT CHANGE DESCRIPTION	Change Order Details (£000's)				Comments
		CO Number	Base Cost Estimate	Risk	Control Budget	
	BUDGET SPLIT AT FINANCIAL CLOSE (INFRACO AWARD) - MAY 2008		481,681	30,336	512,017	
J Casserly	MUDFA - A8 Sewer diversion at Gogar	COP030	1,370	(1,370)	0	Risk item 342
A Richards	Tramco - 1st hedge payment date missed	COP033	6	(6)	0	
D Fraser	Hearts Monument relocation - consultancy work	COP036	10	(10)	0	one off transfer to fund sunk costs WG/DF. Cost allocated to Comms T12.04 - PR Support
	Sub Total of Approved Changes Post Financial Close		1,386	(1,386)	0	
	POSITION POST FINANCIAL CLOSE (+APPROVED CHANGES)		483,067	28,950	512,017	
E Smith	Edinburgh Park Office Rental	COP037	167	(167)	0	Change drafted for 3 years rental & management
	POTENTIAL CHANGES THIS PERIOD (APPROVED)		167	(167)	0	
	OVERALL POSITION POST FINANCIAL CLOSE		483,234	28,783	512,017	

Decision(s) / support required

This paper is for information only and requires no formal decision from TPB.

Paper to: TPB
Subject: Building Fixings Consents
Prepared: G Murray / A Sim

Meeting date: 24/9/08

Executive summary

The Parliamentary Bill includes powers for fixing of Overhead Line Equipment to properties along the route however it requires the promoter to obtain owner permission which can not be unreasonably withheld or withheld with unreasonable conditions. Additionally the Act provides for any refusals which are unreasonably withheld to be referred to the Sheriff Court for final resolution.

Technical design of the tram infrastructure is at an advanced stage and has sought to use building fixings wherever appropriate. These proposals have been taken to owners attached to a 'Building Fixing Agreement' which clarifies the process, rights and requirements over the legislated position. A large proportion of these have been accepted however some objections have been received.

It is recommended that the Tram Project Board notes the progress made to date in securing the consents from the building owners for the building fixings and further notes that the remaining unresolved matters. It is further recommended that these be referred to the Councils October Tram Sub Committee with a recommendation that they be referred to the Sheriff Court for a final decision to be made.

A report has been drafted for submission to the Tram sub committee and is attached below for clarity.

Impact on programme

Building fixing attachment is not programmed to commence until late in the process. Hence action within the Sheriff Court at this time should not impact the programme.

Impact on budget

Considerable resource has already been expended on obtaining owner consent (circa £132K, which has been contained within the existing budget allowance). The majority of additional expenditure required will be absorbed by virtue of the majority of work being undertaken by Council in-house legal team – however, external costs to complete the building fixings process and not currently contained within the tram budget are estimated at £50K.

Impact on risk and opportunities

None

Impact on scope

There should be no impact on the Tram Scope. BSC have contracted to utilise the approvals and consents already achieved and assist in obtaining further consents and approvals as necessary.

Decision(s) / support required

As noted in the executive Summary above the Tram Project Board are requested to submit this issue to the Council Tram sub Committee for noting.

Proposed Name: Alasdair Sim Date: 19/9/08
 Title: Project Interface Director

Recommended Name: Steven Bell Date: 19/9/09
 Title: Tram Project Director

Approved: Date:.....
 David Mackay on behalf of the Tram Project Board

EDINBURGH TRAM – BUILDING FIXING CONSENTS

Tram Sub Committee 27 October 2008

1. Purpose of Report

1.1 To advise the Tram Sub Committee on progress to date with obtaining the consent of property owners for building fixings in relation to the tram project and to inform members of the action proposed by officials to follow, as a last resort, the referral of outstanding matters to the Sheriff Court in Edinburgh for a decision.

2 Main Report

2.1 Section 16 of both The Edinburgh Tram (Line One) Act 2006 and The Edinburgh Tram (Line Two) Act 2006 gives powers for fixing to any building “any brackets, cables, wires, insulators and other apparatus required in connection with the authorised works”. However, this section in each Act also states that no apparatus shall be fixed to a building “without the written consent of the owner; and such consent may be given subject to reasonable conditions but shall not be unreasonably withheld”. Where such consent is unreasonably withheld or given subject to unreasonable conditions, the authorised undertaker (the Council) may refer the matter to the Sheriff and the decision of the Sheriff shall be final. The Acts also provide for the situation where owners do not respond to a request to give their consent: if no response is received within 28 days then this is to be taken as a deemed consent which has been given without any condition.

2.2 Technical design of the tram infrastructure is at an advanced stage and has sought to use building fixings wherever appropriate. The advantages in design terms are that the use of building fixings avoids the use of poles which can be visually intrusive and cause clutter within the public realm. There are situations where avoiding the use of a pole is critical because of space constraints within a narrow street or complex junction; equally there are situations where the use of a fixing is not feasible because there is no suitable building. Tram design has sought to consider the appropriateness of fixings through an integrated, holistic approach to design. There are two sections of the tram route where building fixings are now being sought. These are the route section stretching from the dock gates at Constitution Street to the Foot of the Walk – where the narrow street imposes space constraints and the conservation area status requires care to be taken with visual impacts - and the section between York Place and Haymarket – where conservation area and World Heritage Site status require particular care to be taken to avoid introducing poles into key views and generally avoiding visual and physical clutter within Edinburgh’s busiest streets for pedestrians. It should be noted that there is a possibility that in finalising the technical design, there may be one or two instances where additional fixings may be sought.

2.3 In addition to owner consent, building fixings also require permission from the planning authority. They require the prior approval of the planning authority along with other elements of detailed design for the tramworks, and for certain listed buildings (those listed in Schedule 10 to the Acts) Listed Building Consent is also required. As matters currently stand, prior approvals have been given for all fixings with the exception of those in Shandwick Place (delayed for other reasons

which should be resolved prior to the meeting). Applications for listed building consent for fixings have been approved by the Planning Authority however they are subject to the views of Historic Scotland, which are currently being processed and will be completed as quickly as possible.

Process of seeking consent from owners

2.4 All property owners affected by building fixings received the following

- an informal letter giving advance warning that a formal notice was about to be served, giving details of a helpline to phone to discuss the proposals, and enclosing a leaflet explaining what was involved in building fixings (an example of the leaflet is included as Appendix 1).
- a formal notice seeking their agreement to the building fixing – this package included another copy of the leaflet, a photograph showing the proposed general position of the fixing, an agreement for owners to sign, and a pre-paid envelope for returning the completed signed agreement.

More than 400 property owners were contacted in this way. There were a number of instances where notices had to be re-served for various legal procedural reasons. The process started with the first batch of letters sent out in May 2008. The most recent notice sent was in August 2008.

2.5 **tie** and their legal advisors have carried out follow ups to the service of letters and notices. Contact has been made with owners by telephone, email, exchanges of letters and face-to-face meetings – meetings both with individual property owners and groups. In some instances there have been intensive negotiations. There have been discussions over detailed matters such as whether or not the fixings might give rise to extra costs for building owners, if any compensation might be payable, and if the building survey can be made available for property owners to see. Much effort has been put into the discussions in the hope of addressing the concerns raised.

2.6 Out of a total of 122 proposed fixings (affecting more than 400 owners), owners' consent has been obtained from 364 owners for 92 fixings (either deemed consent or consent with agreement). Thus there are 30 fixings where matters remain unresolved. This will potentially require the Council to pursue further action with 28 owners who have so far written to refuse their consent (affecting 22 fixings). However negotiations are continuing with these owners and at least five are expected to be resolved shortly. Whilst it is anticipated that agreements will be signed with these parties, there remains a possibility that all 28 owners may have to be referred to the Sheriff.

Fixing Status	No.	%
Approved	92	75.4%
Pending - Advanced stage of Negotiation for Agreement	8	6.6%
Rejected	22	18.0%
Total	122	100.0%

Next Stage – Sheriff Court

2.7 As a last resort, the Council as authorised undertaker, is empowered to refer the matter to the Sheriff. This would require a separate application in respect of each owner who has unreasonably withheld consent or consent has been given subject to unreasonable conditions. The reasons for refusal are therefore under review to confirm that the reasons for objection are indeed unreasonable in the eyes of a court hearing. This is likely to result in the relevant owners being summoned to appear at Court. Before embarking on this formal procedure, it is proposed that a letter be sent to each owner advising them of this.

2.8 The anticipated timetable for Sheriff Court procedures is set out in the timeline attached as Appendix 2.

Recommendations

It is recommended that the Tram Sub Committee notes the progress made to date in securing the consents from the building owners for the building fixings and further notes that the remaining unresolved matters be referred to the Sheriff Court for a final decision to be made.

Appendix 1

leaflet

Appendix 2

Timeline for Sheriff Court Procedures

Activity	Time Required	Approx Date
Report to Council's Tram Sub Committee	n/a (draft report required 12 September)	27 October
Lodging in Court	Immediately after Sub Committee meeting	End October
Serve writs on owners refusing consent	1 week	Mid November
Calling Date	4-5 weeks	Mid December
(a) If owner appears – Hearing date set	2 months lead-in	February 2009
(a) Judgment	"with least possible delay"	March 2009?
(b) Owner does not appear to maintain opposition – decree sought in absence	n/a	December 2008