

## Kirsty-Louise Campbell

From: Kirsty-Louise Campbell  
 Sent: 10 December 2007 14:37  
 To: Gill Lindsay  
 Subject: Risks from Report

The risks fall into the following broad categories

- a Project Risks (risks affecting the timeous completion of the project within time and budget and to the desired quality)
- b Operational Risks (risks affecting the long-term viability of TEL)

### Project Risks

1. Between now and financial close there is a risk that the preferred bidder may withdraw from negotiations for a number of reasons, including the potential refusal to accept a novated contract for SDS or Tramco. Tie are working to minimise this risk through negotiations with the final bidder prior to Financial Close.
2. The most significant risks affecting the timeous completion of the project within budget are identified in the FBC as those arising from the advance utility diversion works (MUDFA); changes to project scope or specification; and obtaining consents and approvals.
  1. The main risk in respect of utilities is that delays from MUDFA in handing over sites to the infrastructure contractor could lead to claims from the infrastructure contractor and significant additional costs. Tie staff are working to minimise this risk by working with both Infraco and MUDFA on their respective programmes. There is a further risk regarding the interface between MUDFA and the Scottish Utilities Companies (SUCS). If SUCs fail to approve designs on time, this could delay MUDFA works, which in turn could delay Infraco, leading to claims.
  2. The Infraco contract is substantially a fixed price contract, so any scope changes post financial close will have to be implemented using a variation order, which will add costs to the project. It is therefore important that changes are kept to a minimum and to that end; the Tram Project has a clearly defined tight change control procedures, supervised by the Tram Project Board.
    1. It is recognised that designs are not yet complete and some design assumptions may prove to be different to the aspirations of CEC and / or other third parties (e.g. Forth Ports). If the designs are built into the contract at contract close and the decision is made to change them at a later date, this will lead to additional costs and potential delay. In order to reduce this risk, further work will be done on the tram designs prior to contract close in the context of available funding.
    2. Linked to this risk is that the visual aspects of the designs do not represent the preferences of the prior approvers so that Planning Approval is not given and designs have to be reworked and a variation order made to the contract leading again to additional cost and delay. The planning prior approvals programme is expected to be complete by March 2008, which is post contract close. To minimise the risk of planning approval being withheld post contract close, SDS and tie are involving planning staff in the design process so that concerns can be addressed at an early stage.
  3. As noted in paragraph Error! Reference source not found. Value Engineering savings have been built into the cost estimates. If these cannot be achieved, there is a risk to the project estimate. To reduce this risk, further work will be done on Value Engineering prior to contract close, to improve the robustness of the VE savings. This will be considered prior to Contract Award taking account of the available contingencies and allowances for unrealised risk at that time.
  4. TRO hearing is mandatory requirement under current legislation and financial allowance has been made for this under the risk register. It should be noted that the Scottish Government is consulting on potential changes to the legislation, which if approved would remove the mandatory requirement to hold a hearing, where a project has been subject of Parliamentary Approval.
3. As noted in the Report to Council in December 2006 that , on the recommendation of tie that the Council is taking a long lease of land rather than outright compulsory purchase on two sites, one





wined by Network Rail the other by BAA. There is a small risk that these landowners may seek to impose conditions on the operation of Tram at some future date.

0. It should also be recognised that any decision by the Council or Scottish Ministers to cancel the trams is not free from costs, as costs including compensation to contractors and redundancies at tie, it is estimated this could be between £20m/£40m (dependent on the timing of cancellation) . Transport Scotland has also indicated that should the Council cancel the tram for other than purely commercial reasons, the Council would be liable for the full cost of that decision. Conversely, should Scottish Ministers cancel the project for similar reasons it is assumed that they would pay for the project termination costs. Transport Scotland have acknowledged this in discussions.
1. The £545m of approved funding also is not completely free of risk. In particular contributions to Tram from developers are of course subject to development activity. However Agreements under Section 75 of the Town and Country Planning (Scotland) Act total some £6.77m to date, with a number of further major contributions in the pipeline.
2. It should also be noted that since tie has no assets the Council will be called upon to give some form of formal guarantee of tie's contractual obligations. Current indications are that both Infraco bidders will be seeking a letter of undertaking from the Council to the effect that subject to final approval of release to the Council of grant funding by the Scottish Government, tie will be fully funded by the Council in respect of all payment obligations and financial liabilities incurred by tie pursuant to the Infraco contract, subject to compliance by the contractor with the contract terms. The undertaking would constitute a guarantee of payment only and not a commitment by the Council as to performance of the contractual obligations.

### Operational Risks

3. Future risks arising from the forecasting process have been examined by the JRC. After recapping on the central or reference case forecasts and the assumptions in these forecasts the Revenue and Risk Report tests the sensitivity of Tram to alternative planning and growth assumptions. The JRC also tested assumptions on the attractiveness of Tram to potential users and on the possible impact of bus competition. The analysis of the JRC illustrates the sensitivity of Tram to development assumptions. The interdependence of Tram and development – especially in north Edinburgh should be noted.
4. A detailed statistical analysis has also been carried out that allows the assessment of the impact of a variety of relevant factors within assumed ranges. The analysis notes the sensitivity of the FBC financial projections for TEL. It also re-emphasises the fundamental relationship between the Tram and the continued growth of the City and associated movement demand, and consequently the sensitivity of Tram revenues to planning and economic growth.
5. In mitigation, it should be noted that Lothian Buses' extensive knowledge of the local transport market has been used to inform and validate the modelling process. Passenger growth assumptions are significantly lower than growth Lothian Buses has experienced in recent years.
6. While Council policy can influence planning and economic development there are decisions in the power of the Council and TEL which have a bearing on the outcome for Tram. In this regard the JRC examined the impact of partial completion of Phase 1, the effect of the Edinburgh Airport Rail Link (EARL) and of various detailed operational factors such as the quality of interchange, tram run-times, and bus service integration plans. The recent decision of Parliament to shelve EARL and the associate proposals for a new station at Gogar have not been included in the financial analysis for the FBC but will be positive.
7. The JRC concludes that the most significant risk to Tram arises from the planning growth assumptions (this applies especially to Phase 1b) but that TEL could manage its operations and reduce costs in response. However the most recent data available shows a continuing strong growth in development in areas close to the route of the Tram in north Edinburgh. The highest growth rates in the number of dwellings the City are to be found in Leith and Leith Walk where growth rates of approximately 8% from 2003 to 2005 have been recorded (Source Scottish Neighbourhood Statistics). Confidence can also be drawn from the continued growth in Lothian Buses patronage levels which continues at around 5% per annum – a figure well above the projections of the JRC report.
8. It also should be noted that current modelling assumes that the Edinburgh Tram Project will be covered by the Scottish Executive's Transport Scotland's national concessionary travel scheme. It is a fundamental assumption that has consistently been understood and endorsed by Transport Scotland for business planning purposes that TEL bus and tram will both participate in the national concessionary travel scheme. However, this concessionary travel scheme will be reviewed by Government prior to the commencement of the tram. There is a risk that either the scheme will not






onger apply (or provide a lower rate of compensation to transport operators), or that it could apply to bus and not tram. Given the long-standing commitment to integrated operation it is difficult to understand how this would be feasible.

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