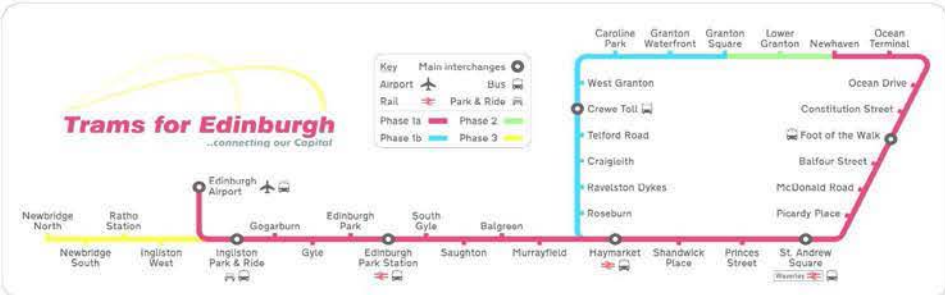




EDINBURGH TRAM Highlight Report to the Chief Executive's Internal Planning Group 12 May 2010



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, 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.

Communications Update

A media update is provided along with information on the arrival of the first tram and FOISA requests received.

Council meeting on 27 May 2010

A draft report has been prepared to update the Council on the tram project. The main headings in the report are provided.

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.

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

An updated position for the CAADs is provided.

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.



2.2 Matters to Note or for a Decision

- To note the update on project 'pitchfork', the financial contingency planning and Financial update, the alignment of roads programme and the Governance update.
- To note the Tram Monitoring Officers (TMO) update on DRP and that the TMO is now based at Citypoint 3 days a week.
- To note the communications update.
- To note the contents of the report being prepared for the Council meeting on 27 May 2010. This should be the main topic for the meeting.
- To note the progress with the Statutory Approvals and consents.
- To note the position regarding land acquisition and CAAD applications.
- 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.

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

Project "Pitchfork" Update

tie ltd continue to follow through the recommendations of the Pitchfork report.

There are primarily two strands to this work.

In tandem with the continuing contractually assertive approach, **tie ltd** have begun negotiations with BSC with a view to achieving agreement on a phased approach to the delivery of Phase 1a and what part Bilfinger Berger play in this. Discussions have so far been constructive but there remain significant issues to overcome such as Design responsibility and commercial settlement on a Guaranteed Maximum Price. **tie ltd** have set a 4/6 week deadline for finalising these work streams.

Clause 80 – 4 targeted 80.13 instructions have been sent to BSC covering a series of issues. BSC have, neither responded to, nor progressed any of these instructions.

Schedule Part 4 – Pricing Assumption 1. This issue relates to the BDDI/IFC dispute. CEC have now received the report from McGrigors which summarises the position from Davies QC and Keen QC. Whilst the position is very technical the conclusion of both QC's is broadly that it is difficult to say with any certainty how a court would rule on this issue.

"Siemens 33" – Bilfinger Berger continue to procrastinate on resolving the 33 issues in the Airport to Edinburgh Park section.

Bilfinger Berger Letter to CEC – CEC are seeking assurance from **tie ltd** on the points made in Bilfinger Berger's letter to the Chief Executive of CEC, dated 1st April 2010. The letter broadly accused **tie ltd** of failing in a number of areas in their management of the project. CEC have followed up on each point and evidence supporting **tie ltd's** case will be available by week commencing 17th May 2010.



Incremental Delivery Options

Further work has been undertaken to assess the impacts on the TEL Business Plan of Incremental Delivery Options. This work, to assess the revenue and profit impacts, is in draft form and requires a root and branch review of patronage numbers and operating costs for both tram and bus. A workshop will be set up in the next week to discuss the patronage drivers and the changes to these assumptions since the TEL Business Plan was last reviewed.

Indicative forecasts of the impacts of Incremental Delivery are shown in the table below, though it should be noted a significant amount of work is required to firm up these numbers.

	Phase 1a £m	Haymarket £m	St Andrews Square £m	Foot of the Walk £m
Total TEL Patronage	127.2	125.9	126.2	127.1
TEL Operating Profit	14.9	5.2	6.7	11.3

Both the capital costs and TEL Business Plan impacts of incremental delivery will continue to be reported to the IPG over the coming weeks as work is finalised. It will be important to assess the capability and affordability of the TEL Business Plan to absorb leasing costs and any borrowing costs to pay for Prudential funding.

Financial Contingency Planning

Contingency Planning options continue to be evaluated. The Director of Finance will discuss contingency planning options and Incremental Delivery options with Transport Scotland in the near future.

Finance Update

No update this period.

Alignment of Roads Programme

A meeting has now been arranged with SfC for 18th May to discuss possibilities to align the Council's roads programme with on-street construction of the tram. Feeding into this meeting will be information from a meeting being held between **tie ltd** and Council colleagues from SfC, Finance and City Development to discuss the design life and maintenance implications of the Councils roads that have been impacted on by the tram works.



Update of Council's Tram Funding Strategy

There will be a report to the next IPG on the Council's funding strategy. The review will be undertaken by Finance and City Development. This review will include the impact of incremental delivery on developers contributions.

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

One of the possible delivery models for Phase 1a, as detailed in project Pitchfork, was the delivery of the on-street works where **tie ltd** step in to manage the civil engineering sub-contractors directly. One of the areas of concern related to this delivery mechanism would be the interface risk that could fall on **tie ltd** under this arrangement. A workshop will be set up in the near future with **tie ltd** to assess the apparent risks and the financial exposure of these risks.

As reported previously, BSC have commenced works at Lindsay Road on the retaining wall required in this section. **tie ltd** are also seeking tenders for Utilities works at Baltic Street. It is important, with Incremental Delivery in mind that ownership is taken by the Council to instruct **tie ltd** that no further works are undertaken that would be prone to construction phasing.

The TMO is currently undertaking an assurance role for the Council on Programme and Project management related issues. It is envisaged that the report will be completed by mid June. The main issues being examined are Programme, Princes Street Supplemental Agreement, Inspection and Testing, Audit, Temporary Traffic Management and Compliance with Operating Agreements.

Consideration must be given to how the full time TMO role will be developed going forward. Given the current issues around the project, it will be important, to protect the Council's interest that the role is given greater consideration than has previously been the case. The role should scrutinise all Programme, Project Management, Commercial, Financial and TMO compliance issues in the future.

There are currently four active DRP's. Three of the items relate to design issues for the Depot Access Bridge, Track Drainage and Tower Place Bridge. The fourth item relates to delay resulting from utility works (MUDFA Rev 8).

Baird Drive Retaining Wall item was previously referred to adjudication; it is now likely that this will be settled through negotiation at c£1m. Tower Place adjudication took place on 11th May 2010; details of this adjudication will be included in the next report to the IPG.

Following a decision taken by the IPG, due to lack of progress and concerns on the project, the TMO is now undertaking a more intensive role in the project, with particular focus on Project Management and Programme related issues. The TMO will provide a comprehensive report to the IPG in June.



5 Communications Update (Presented by Isabell Reid)

Media update

The last two weeks has been a quiet media time for the tram project, probably as a result of the interest in the General Election. The only significant coverage has been on the arrival of the first tram vehicle, including its subsequent visitor numbers, the lifting of traffic management restrictions at the West End and the branding of tram vehicles. This has been largely positive. We are expecting media interest to pick up in the coming weeks, particularly with the publication of the Council report.

Tram vehicle update

As mentioned, the first tram vehicle has been open to the public on Princes Street for 12 days now and recorded 17,442 visitors during that period. So far the feedback from visitors has been extremely positive. The exhibit is open daily from 11am and 6pm with knowledgeable staff on hand to answer visitor questions. There has been a lot of interest from schools and a programme of class visits is currently being considered.

Launch of Leith Business Hub

On Monday (10th May) the Leith Business Hub officially opened at the MacDonald Road Library. Sir Tom Farmer, spoke at the launch event.

The Hub delivers key business support and education services in the local community and a programme of courses began at the centre in April and May, including popular workshops like "Mastering Selling Skills". The project is part of "I Love Leith," a cross-agency development project to promote the identity of Leith, support its existing business community and encourage inward investment and trade and tourism.

Agencies involved in the project include; **tie**, the Council's Economic Development Unit, City Libraries Service, Leith Neighbourhood Partnership and the Business Gateway.

6 Council meeting on 27 May 2010 – draft issues (Presented by Alan Coyle)

The report proposed for Full Council on the 27th May is now well progressed. The report will be tabled at the meeting for discussion. The main areas where a decision is required are;

- Disclosure of Princes Street Costs
- Utilities Costs
- Legal Review of Commercially Sensitive Issues
- TMO view of Programme
- Detail of Incremental Delivery Options
- Recommended timing for Reporting

7 Remit and membership of IPG

The Director of City Development is currently reviewing the remit and membership of the IPG.



8 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 1.

CEC Statutory Council Approvals and Consents	Total Number of Submissions	Total number of Approvals	% Complete
Prior Approval	65	61	94%
Full Planning Permission	15	9	60%
Listed Building Consent	11	11	100%
Scheduled Monument Consent	1	1	100%
Building Warrant	19	15	79%
Technical Approvals (including Structures, Roads and Drainage)	129	91	70%
Total	240	188	78%

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.

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

There is no significant change in the tram CAAD position. The current status is set out in Appendix 3.

10 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.

Item number 6 – The reporting on the objections from the tram TROs was planned for the Council meeting in June, however Councillor Mackenzie has asked that it be reported to the Transport, Infrastructure and Environment Committee in July instead as this would help with obtain support from the other political parties.

Councillor Mackenzie has set a provisional date for the next tram sub-committee on Thursday 3 June, and it has been provisionally agreed that this time can be used for a site visit by sub-committee members.



APPENDIX 2

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			I	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		I				On hold awaiting drainage design/revised RSA
3A	Roads & Drainage	I			31/10/09	?	Progressing application in with priority list
3B	Roads & Drainage	I			31/10/09	?	Progressing application in with priority list
3C	Roads & Drainage	I			31/10/09	?	Progressing application in with priority list

APPENDIX 3

COMPULSORY ACQUISITION

LOCATION	PREVIOUS OWNERSHIP DETAILS	PLOT NO	AREA (m2)	DV VALUE	PLANNING BASIS	PLANNING/CAAD RISK	RISK VALUE	COST RISK	ADDITIONAL FEES	ADDITIONAL INTEREST	TOTAL AT RISK	BUDGET RISK	ACTION TO MITIGATE	LIKELY OUTCOME
FORTH PORTS	CALA Management Ltd	47												
*	CALA Management Ltd	48	566	£ 10,000	transport reservation/amenity	residential	£1,500,000	£ 260,000	£ 30,000	£ 130,366	£ 1,910,366	£ 1,900,366	CAAD appeal in front of reporter	
	CEC	49	310		transport reservation/amenity	residential	incl in above							
HAYMARKET YARDS	Haymarket SPV Ltd	516	206	£ -	transport reservation/amenity	office/business		£ -	£ -	£ -	£ -	£ -		
*	Haymarket Yards Ltd	517	1096	£ 26,750	transport reservation/amenity	office/business	£250,000	£ 75,000	£ 5,000	£ 21,726	£ 361,726	£ 320,978	risk arises from CAAD decisions where different from planning advice given to District Valuer when estimates were prepared. BAM have application for CAAD currently in CALA at appeal and likely to go further to appeal. Thereafter to Lands Tribunal, considerable costs already incurred and 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.	
	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	£ 361,726	£ 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	£ 361,726	£ 306,622		
GYLE	CEC & Jones Lang LaSalle Ltd as agents for the Universities Superannuation Scheme Ltd	478	1366	£ 57,600	transport reservation/amenity	retail	£1,000,000	£ 60,000	£ 20,000	£ 66,804	£ 1,156,804	£ 1,089,404		
*	CEC	479	111	£ 1,150	transport reservation/amenity	retail	£0	£ -	£ -	£ -	£ -	£ -		
	CEC & Jones Lang LaSalle Ltd as agents for the Universities Superannuation Scheme Ltd	480	69	£ -	transport reservation/amenity	retail	£35,000	£ 60,000	£ 700	£ 3,042	£ 68,742	£ 68,742		
*	CEC	481	5519	£ 33,560	transport reservation/amenity	retail	£0	£ -	£ -	£ -	£ -	£ -		
	CEC & Jones Lang LaSalle Ltd as agents for the Universities Superannuation Scheme Ltd	482	1196	£ -	transport reservation/amenity	retail	£600,000	£ 60,000	£ 12,000	£ 52,142	£ 714,142	£ 714,142		
*	CEC	483	3162	£ 14,407	transport reservation/amenity	retail	£0	£ -	£ -	£ -	£ -	£ -		
AIRPORT/A8	CEC	495	505	£ 7,265	hope value	hope value	£0	£ -	£ -	£ -	£ -	£ -		
*	Haslemere Estates as agents for Meadowfield Developments Ltd	496	10724	£ 153,841	hope value	hope value	£450,000	£ 60,000	£ 9,000	£ 39,107	£ 548,107	£ 394,266		
*	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	£ 60,000	£ 12,000	£ 52,142	£ 714,142	£ 627,712		
*	BAA plc, Edinburgh Airport Ltd, & Scottish Airports Ltd	499	41905	£ 779,174	hope value	hope value	£2,100,000	£ 60,000	£ 42,000	£ 182,498	£ 2,374,498	£ 1,595,324		
	Haslemere Estates as agents for Meadowfield Developments Ltd	456	16016	£ -	hope value BAA?	hope value	£650,000	£ 60,000	£ 13,000	£ 55,489	£ 769,488	£ 769,488		
*	Pinnacle Towers Ltd, Royal Bank of Scotland plc	273	4419	£ 115,000	hope value	hope value	£250,000	£ 60,000	£ 6,000	£ 21,726	£ 306,726	£ 211,726		
	Haslemere Estates as agents for Meadowfield Developments Ltd	269	1188	£ 89,000	hope value	hope value	£120,000	£ 60,000	£ 2,400	£ 10,428	£ 182,828	£ 113,828		
*	New Ingleston Ltd	291	8046	£ 175,000	hope value	hope value	£850,000	£ 60,000	£ 12,000	£ 73,868	£ 990,868	£ 815,868		
*	New Ingleston Ltd	303	10064	£ 150,000	hope value	hope value	£1,100,000	£ 60,000	£ 22,000	£ 95,994	£ 1,267,994	£ 1,117,594		
*	New Ingleston Ltd	312	17726	£ 180,000	hope value	hope value	£1,200,000	£ 60,000	£ 36,000	£ 196,427	£ 2,042,427	£ 1,862,427		
*	New Ingleston Ltd	316	5516	£ 100,000	hope value	hope value	£600,000	£ 60,000	£ 12,000	£ 52,142	£ 714,142	£ 614,142		
*	FSI Airport (Edinburgh) Services Ltd	322	29477	£ 590,000	hope value	hope value	£4,000,000	£ 60,000	£ 60,000	£ 347,615	£ 4,477,615	£ 3,927,615		
*		327	3362	£ 75,000	hope value	hope value	£450,000	£ 60,000	£ 9,000	£ 39,107	£ 548,107	£ 473,107		
	TOTALS			£ 2,894,847			£ 16,855,000	£ 1,225,000	£ 337,100	£ 1,464,767	£ 19,881,867	£ 17,235,395		

- Notes
- 1 No allowances for Injurious Affection
 - 2 No allowances for severance
 - 3 No offset for betterment
 - 4 No allowance for change of Planning

FORTH PORTS: RISK OF ADVERSE CAAD REQUIRING REVISED BASIS OF VALUATION. CALA CAAD at appeal stage. Awaiting appointment of Reporter.

HAYMARKET YARDS: RISK OF ADVERSE CAAD REQUIRING REVISED BASIS OF VALUATION. BAM CAAD being considered.

GYLE: RISK FROM CHANGING PLANNING REQUIREMENTS FOR SHOPPING CENTRES PERMITTING ADDITIONAL DEVELOPMENT THEREFORE INCREASED VALUATION.

AIRPORT/A8: ONGOING PLANNING DISCUSSIONS INCREASING HOPE VALUE PLUS CHANGE OF PLANNING CONSENT WITHIN 10 YEAR PERIOD ALLOWS CLAIMANT TO REVISIT CLAIM NOW SUBMITTED CLAIM.

EAL: GENERAL: CONSIDERABLE EXPOSURE TO COSTS FOR CAADS, LANDS TRIBUNAL AND COURT REFERRALS. ADDITIONAL SETTLEMENTS ALSO RESULT IN ADDITIONAL FEES AND INTEREST PAYMENTS.

	CLAIMS LODGED	DV ESTIMATE	SHORTFALL
WEST CRAIGS	£ 8,900,000	£ 240,271	£ 8,269,729
NIL	£ 11,600,000	£ 1,445,600	£ 10,054,400
BAM	£ 2,000,000	£ 26,750	£ 1,973,250
CALA	£ 1,500,000	£ 10,000	£ 1,490,000
EAL	£ 4,900,000	£ 866,825	£ 3,933,175
			£ -
TOTAL	£ 26,000,000	£ 2,391,346	£ 23,608,654

