



## **Transport Edinburgh**

**Edinburgh Trams**

**Lothian Buses**

### **Tram Project Board Report on Period 5 Papers for meeting 26<sup>th</sup> August 2009**

**09:30am – 1:00pm following the tie Board meeting**

#### **Distribution:**

##### **Members and attendees**

David Mackay (Chair)  
Marshall Poulton  
Bill Campbell  
Steven Bell  
Kenneth Hogg  
Cllr Ian Perry

Cllr Phil Wheeler  
Stewart McGarrity  
Cllr Allan Jackson  
Cllr Gordon Mackenzie  
Brian Cox  
Peter Strachan

Donald McGougan  
Richard Jeffrey  
Dave Anderson  
Graeme Bissett  
Alastair Richards  
Neil Scales  
Alasdair Sim (minutes)

##### **In addition – for information only**

Cllr Maggie Chapman  
Andy Conway  
Norman Strachan  
Iain Coupar  
Susan Clark

Cllr Tom Buchanan  
Frank McFadden  
Alan Coyle  
Gregor Roberts

Dennis Murray  
Ailie Wilson  
Jim McEwan  
Gill Lindsay

TRAM PROJECT BOARD

**Transport Edinburgh**

**Edinburgh Trams**

**Lothian Buses**

FOISA exempt  
 Yes  
 No

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**Agenda Tram Project Board**

**Brunel Suite – Citypoint, 2<sup>nd</sup> Floor**

**26<sup>th</sup> August 2009 – 09.30am to 1.00pm following the tie Board meeting**

**Attendees:**

David Mackay (Chair)	Cllr Phil Wheeler	Donald McGougan
Bill Campbell	Richard Jeffrey	Dave Anderson
Steven Bell	Stewart McGarrity	Graeme Bissett
Kenneth Hogg	Cllr Allan Jackson	Alastair Richards
Cllr Ian Perry	Cllr Gordon Mackenzie	Neil Scales
	Brian Cox	Alasdair Sim (Minutes)

Apologies: Marshall Poulton

- 1 Review of Previous Minutes and Matters Arising
- 2 5 Key Business Priorities (Richard Jeffrey)
  - 2.1 Building the Tram (Steven Bell)
    - Project Director Progress Report Period 5
    - Change Requests & Risk Drawdown (paper in pack)
    - TRO update (paper in pack for noting)
  - 2.2 Preparing for Operations (Alastair Richards)
  - 2.3 Building the Brand (Mandy Haeburn-Little)
  - 2.4 Building the Team (Richard Jeffrey)
  - 2.5 Preparing for the Future (Richard Jeffrey)
- 3 Governance (Graeme Bissett)
- 4 Date of next meeting – 23<sup>rd</sup> September 2009
- 5 AOB

**Edinburgh Tram Network Minutes**

**STRICTLY PRIVATE AND CONFIDENTIAL**

**Tram Project Board**

**29<sup>th</sup> July 2009 (10:00 to 13:10)**

**tie offices – Citypoint II, Brunel Suite**

<b>Members:</b>			
David Mackay (Chair)	DJM	Donald McGougan	DMcG
Cllr Gordon Mackenzie	GM	Bill Campbell	WWC
Richard Jeffrey	RJ		
<b>In Attendance:</b>			
Steven Bell	SB	Marshall Poulton	MP
Stewart McGarrity	SMcG	Mandy Haeburn-Little	MHL
Brian Cox	BC	Cllr Ian Perry	IP
Graeme Bissett	GB	Cllr Allan Jackson	AJ
Andrew Fitchie	AF	Cllr Phil Wheeler	PW
Stuart Jordan	SJ	Alastair Richards	AR
Dave Anderson	DA	Peter Strachan (part time telecom)	PS
Andy Conway	AC	Alasdair Sim (minutes)	AS

**Apologies:** Neil Scales, Kenneth Hogg

<b>1.0</b>	<b>Introduction, Review of Previous Minutes and Matters Arising</b>	
1.1	DJM welcomed the participants to the meeting and acknowledged the apologies. Peter Strachan participated in the meeting part time by conference call.	
1.2	Item 3.1 from 08/07/09 meeting minute - DJM suggested that in view of the current range of matters to discuss at the Board, that the Service Integration discussion to be led by WWC will be rescheduled for the August 26th Board meeting.	
1.3	Item 2.2 from 08/07/09 meeting minute is covered under the Building the Brand section of this minute.	
1.4	Item 6.1 from 08/07/09 meeting minute. GB updated the Board under the Future of tie section of this minute.	
1.5	<b><i>The minutes of the previous meeting on 08/07/09 were approved as an accurate record.</i></b>	
<b>2.0</b>	<b>Chief Executive's Quarterly Review</b>	
2.1	RJ has been in post for approximately 3 months, and reported his thoughts around the 5 key strategic themes since his appointment as CEO. These are summarised as follows: <i>Building the Tram</i> <ul style="list-style-type: none"> <li>▪ Many historic issues 'baked into' the project linked to the procurement</li> </ul>	

	<p>strategy and issues related to risk transfer/management. It will be a useful exercise to undertake a comprehensive post project review, however there is little benefit to be gained in looking backwards at this point.</p> <ul style="list-style-type: none"> <li>▪ Professional, knowledgeable and highly committed <b>tie</b> team, strong TPB support and improvements in 'One Family' working has been encouraging.</li> <li>▪ MUDFA contract drawing to a close – this has been a challenging and technically difficult part of the project. Perhaps the complexities associated with the 'unknown' elements to below ground working (poor utilities records, obstructions etc) had not been fully appreciated.</li> </ul> <p><i>Preparing for Operations</i></p> <ul style="list-style-type: none"> <li>▪ Beginning to gain momentum, and as time passes will become increasingly important.</li> <li>▪ Relationships between CEC/TEL/LB and <b>tie</b> much stronger - 'One Family' ethos.</li> </ul> <p><i>Building the Brand</i></p> <ul style="list-style-type: none"> <li>▪ Previously suffering from 'victim' mentality/culture, these behaviours are changing &amp; RJ sees further improvements in working towards a 'contender' organisation.</li> </ul> <p><i>Building the Team</i></p> <ul style="list-style-type: none"> <li>▪ Much clearer HR governance and strategy now in place.</li> <li>▪ Staff/People Plan for <b>tie</b> now in draft and under review.</li> <li>▪ Reward/remuneration strategy being worked up.</li> <li>▪ Still some carry-over cultural behaviours to work on internally.</li> </ul> <p><i>The Future of tie</i></p> <ul style="list-style-type: none"> <li>▪ Single project organisation at present – this provides focus, but also creates uncertainty.</li> <li>▪ What happens after delivery of Phase 1a is a concern of staff.</li> <li>▪ Opportunities to become involved in other initiatives (SETL and other projects) not a priority at present, but a watching brief to be maintained.</li> <li>▪ Clarity on governance arrangements now taking shape and nearing finalisation.</li> </ul> <p>RJ concluded his review by confirming that the organisation understands the challenges ahead, and that he feels that <b>tie</b> are heading in the right direction. TPB support has been positive and that none of us should lose sight of the final product, which is a world class integrated transport system for Edinburgh.</p>	
2.2	DJM thanked RJ for his efforts thus far and ongoing contribution to <b>tie</b> and to the project.	
<b>3.0</b>	<b>Building the Tram</b>	
3.1	<p><u>HSQE</u></p> <p>SB presented an overview of progress during Period 4. An incident involving an elderly member of the public outside a Carillion worksite is under investigation, which if confirmed as a result of construction activity, will see the AFR rise to 0.33. PM Inspections and Safety Tour Targets had not been achieved in the period and this will be rectified in Period 5. Confirmation from BSC on the Inter-Disciplinary Assurance Checking (IDC) process is still outstanding and remains a concern.</p>	

<p>3.2</p>	<p><u>Overview of Current Progress (INFRACO)</u>                  SB reported that Princes Street tramworks remain on target for completion at the end of November, and that interim measures regarding pedestrian crossing facilities on Princes Street have been confirmed for the duration of the Festival. Excavation works at Gogar Depot are complete, but progress from BSC has been held up due to commercial issues regarding design changes.                  RJ noted that the BSC rate of progress has reduced in the period, and that this could be attributed to a number of factors including holidays, BSC possibly running out of work in key areas and sub-contractor issues.                  Tram manufacture continues ahead of schedule, and there are now 9 trams under various stages of construction (2 in the finishing shop), with Factory Acceptance Testing (FAT) scheduled for Tram No.1 to be undertaken during September 2009.                  Proposals are currently being worked up to allow concurrent construction of the Shandwick Place Tram Stop in conjunction with the remaining utilities works in the Haymarket area, and DA reported that the West End Traders had accepted that there is no opportunity to move this tram stop from its planned location.</p>	
<p>3.3</p>	<p><u>Overview of Current Progress (Utilities)</u>                  Residual diversions well underway and on programme in Section 7B (Airport), this work being undertaken by Farrans. Tenders for the diversions on Section 1A (Forth Ports) to go out w/c 27/07/09. Carillion are still working in Haymarket, York Place to Broughton Street and Leith Walk/Annandale Street and the overall completion of the utilities programme is at 80% with full completion scheduled across all areas in November 2009.                  SB reported that a particularly complex gas diversion and decommission has been completed safely at the Mound, with PW noting that Edinburgh has the highest percentage of cast iron gas mains for any City in Scotland. MP confirmed this fact and noted that these will all need to be upgraded in the future and that valuable lessons had been learned and that CEC was working with SGN to programme these works to minimise disruption.                  Although overall progress remains slow, there are real complexities associated with the utilities diversion works and as noted by RJ earlier; underground obstructions, poor quality utility recording and mapping and enforced design changes all import risk and place strain on programme credibility. The Board appreciate these complexities and DMcG suggested that the focus should be on the fact that the City has new infrastructure in place, and that where possible, recovery of costs from the SUCs for betterment should be progressed. SB noted that several million pounds worth of betterment value has already been secured from Scottish Power and Scottish Water, and that he would prepare a summary statement for the August Board of the outstanding areas where betterment would apply and monies already received.                  SB reported that the outstanding commercial matters to be resolved with Carillion are scheduled to commence from mid-September 2009, and that the anticipated cost implications of this are under preparation and will be presented with full analysis to the next Board. In the meantime SMcG will provide a range of values to DMcG for inclusion in the 20<sup>th</sup> August Council report.                  Other utilities related points to note were; RJ asked the Board to be aware that ongoing design matters at Picardy Place will need to be resolved and that</p>	<p>SB  SMcG</p>

	<p>should this mean a change to the track alignment, then there is a risk that utilities will need to be re-diverted and that this would come with associated programme and cost implications. DA noted that the City Development Planning and Transport are currently reviewing the proposals.</p>			
<p>3.4</p>	<p><u>Relationship with BSC</u>                  RJ reported that following the previous Board meeting, he has undertaken discussions with the Consortium partners advising them of <b>tie's</b> intention to proceed down the formal contractual route (DRP) as a means of dealing with the outstanding commercial issues. This initial contact has been followed up with joint meetings with senior Consortium representatives, with BB confirming verbally that they would be prepared to work under instruction (Clause 80.15) whilst other matters are being dealt with under DRP.                  SB in response to a query from DA confirmed that the majority of BSC's sub-contractors are operating under Letters of Intent rather than formal contracts, but that this should not significantly change the risk profile in regard to work progress.                  DJM confirmed that the BB Interim Financial Results are due to be published on 13 August.</p>			
<p>3.5</p>	<p><u>Change Requests and Risk Drawdown</u>                  SB submitted a risk drawdown request for a combined sum of £2.7m, comprising:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 70%;"> <ul style="list-style-type: none"> <li>▪ COP071 CEC Staff Recharges @ £400K</li> <li>▪ COP106 Abortive Design Estimates @ £6.5K</li> <li>▪ COP108 Dressing the City Centre @ £50K</li> <li>▪ COP042 Tram Inspector Costs @ £264K</li> <li>▪ COP105 Infraco Risk Drawdown @ £2.01m</li> </ul> </td> <td style="width: 30%; vertical-align: top; text-align: right;"> <p><b>Approved</b>  <b>Approved</b>  <b>Approved</b>  <b>Approved Subject to *</b>  <b>Approved</b></p> </td> </tr> </table> <p>* COP042 Tram Inspector Costs was approved subject to a confirmation from AR to DA on the breakdown/value for money assessment for these costs.</p> <p>DMcG noted that with the conclusion of the governance matters and the adoption of the One Family approach, CEC rand other recharge costs can be minimised in the future. SMcG was asked to follow this up as required.                  It was noted that COP105 is a forecast drawdown and is contained within the available funding envelope.</p>	<ul style="list-style-type: none"> <li>▪ COP071 CEC Staff Recharges @ £400K</li> <li>▪ COP106 Abortive Design Estimates @ £6.5K</li> <li>▪ COP108 Dressing the City Centre @ £50K</li> <li>▪ COP042 Tram Inspector Costs @ £264K</li> <li>▪ COP105 Infraco Risk Drawdown @ £2.01m</li> </ul>	<p><b>Approved</b>  <b>Approved</b>  <b>Approved</b>  <b>Approved Subject to *</b>  <b>Approved</b></p>	<p>AR</p> <p>SMcG</p>
<ul style="list-style-type: none"> <li>▪ COP071 CEC Staff Recharges @ £400K</li> <li>▪ COP106 Abortive Design Estimates @ £6.5K</li> <li>▪ COP108 Dressing the City Centre @ £50K</li> <li>▪ COP042 Tram Inspector Costs @ £264K</li> <li>▪ COP105 Infraco Risk Drawdown @ £2.01m</li> </ul>	<p><b>Approved</b>  <b>Approved</b>  <b>Approved</b>  <b>Approved Subject to *</b>  <b>Approved</b></p>			
<p>3.6</p>	<p><u>Paper on Traffic Regulation Orders Protocol</u>                  SB/AS presented an overview of the proposed TRO protocol, highlighting the following points:</p> <ul style="list-style-type: none"> <li>▪ TRO1 is the suite of TRO measures required to operate the tram system in accordance with its approved Business Case – these measures are considered non-negotiable on the running carriageway, although there may be some limited scope to change the type of regulatory measures adopted (eg. parking, loading or time constraints) in laybys.</li> <li>▪ TRO2 will encompass changes to the design (where appropriate) arising from comments received from the public during the formal public deposit of TRO1 and the wide area measures required as a consequence of the</li> </ul>			



	<p>tram.</p> <ul style="list-style-type: none"> <li>▪ Further TROs can be promoted as necessary to capture any other emerging issues.</li> <li>▪ Statutory deposit of TRO1 is planned for October 2009.</li> </ul> <p>MP asked if would be possible to promote a order for the wide area in parallel with TRO1. AS confirmed that this approach would only be feasible if this order only considered stand alone wide area measures that not necessary to operate the tram system. The timing of this however, would need to be agreed with CEC as promoter.</p> <p>DA was concerned that the protocol as drafted recommends that the Statutory Consultation Phase for TRO1 is limited to the 5 consultees required by statute, and not the wider group that CEC would normally consult with. He was particularly concerned about not involving the local Community Councils at the early stage in the process. MP will follow up with GMcK and suggested that the TRO Working Group consisting of CEC/<b>tie</b> and D&amp;W review the consultee list and agree the composition of this.</p> <p>GMcK inquired about the risks associated with a Public Hearing, and AS noted that there is no legal requirement to undertake a mandatory Public Hearing for the Tram Project, but that the Council can decide to opt for a voluntary hearing should they so desire. MP strongly advised against this and this view was supported by the Board.</p> <p>DJM noted that the TRO is an essential component for the operation of the tram system, and that cross party support to follow the recommended strategy is vital.</p> <p>Whilst was recognised that further work on the detail of the TRO submissions is necessary and this will come forward in due course, <b>the TRO Protocol was approved by the Board.</b></p>	<p>MP AS/AC</p>
<p>3.7</p>	<p><u>Formal Contractual Position with BSC</u></p> <p>RJ provided a recap of the mediation week to the Board, and reaffirmed the recommendation to the Board to progress matters by employing the Formal Contractual approach utilising DRP and other remedies. He stressed that this route is not risk free, and outlined the pros and cons of this approach, dwelling on BSC behaviours to date and setting out the elements that can be dealt with through the formal process, all within the framework of the contract that both parties signed on 14 May 2008.</p> <p>Since the last Board meeting a great deal of preparatory work has been undertaken to consider a range of precisely defined issues/matters targeted at achieving maximum impact from a project progress and confidence of success perspective.</p> <p>AF and SJ then went on to update the Board on the process to identify a number of separate and interlinked cases that have been carefully selected to take forward into this formal process in a series of tranches. It is expected that the first of these notices may be issued to BSC in early August. RJ stressed that <b>tie</b> have instructed independent legal advice, to challenge the robustness of the arguments to be presented in each case. A general discussion on the process was undertaken, and the following points were noted:</p> <ul style="list-style-type: none"> <li>▪ The DRP process need not play out to conclusion of adjudication and that the parties have the option of reaching agreement at any stage.</li> </ul>	

	<ul style="list-style-type: none"> <li>▪ Targeted cases rather than a ‘class action’ strategy would be the preferred approach recognising that some of the key items are linked.</li> <li>▪ Instructed work arising from approved changes can proceed under the terms of the Contract whilst the DRP process is in motion.</li> <li>▪ There is a contractual obligation on BSC to provide audit reports on request.</li> <li>▪ The contract has a schedule naming the individuals who may be considered for the Adjudicator role – costs for this to be borne equally between the parties.</li> <li>▪ Decision making in the adjudication process has fixed timescales set out in the contract (42 days), but the risk exists that an adjudication ruling is not accepted which could lead to litigation proceedings. The timeframe for this is at the discretion of the public court process. This does however bring into play the possibility of a material breach of contract.</li> <li>▪ Practical consideration should be given to dealing with the way forward following conclusion of the DRP process.</li> <li>▪ It is recognised that BSC will also be gearing up in preparation for this process and this should not be underestimated.</li> </ul> <p>The Board was asked to approve the recommendation that RJ as CEO be given the authority to activate the items to be brought forward into the formal notice process to BSC, with the Finance, Commercial and Legal (FCL) Sub-Committee acting as a steering group. This group will be meeting on a weekly basis for the duration of the process.</p> <p><b>The recommendation was approved by the Board.</b></p>	
<b>4.0</b>	<b>Preparing for Operations</b>	
4.1	<p>AR outlined the current contractual and management arrangements for the operation of the integrated bus and tram network, highlighting the linkages between the tram operating contract, the tram maintenance contract and the bus operations.</p> <p>The Development Partnering Operating Franchise Agreement (DPOFA) was signed in 2004 with Transdev, and is currently in Phase C1 of the contract. This contract is set to run until 2019 under the current arrangement. Opportunities for TEL to take on a more traditional operator role, whilst at the same time streamline costs and avoid duplication of activities going forward have been identified.</p> <p>A discussion on the benefits of in-house sourcing of the DPOFA responsibilities took place, and it was noted that there is currently a contractual window of opportunity to opt out of the DPOFA contract with minimum financial penalty. DJM noted that this matter had been discussed in detail with TEL and LB and that this direction was supported. BC confirmed his support to the proposal to opt out that this point in the contract.</p> <p>The Board was asked to approve the recommendation to authorise the Executive Team to engage with Transdev and inform them of the intent to terminate the present DPOFA contract during the current Phase C1 and negotiate a new agreement which would allow Transdev to be engaged in a technical support role. This would include the allowance to take appropriate steps to transfer key staff to TEL, who have been providing committed support over the period of the current DPOFA arrangements.</p>	

	<b>The recommendation was approved by the Board.</b>	
<b>5.0</b>	<b>Building the Brand</b>	
5.1	<p>MHL updated the Board on a range of items including;</p> <ul style="list-style-type: none"> <li>▪ The ongoing work within the 'One Family' developing the communication strategy for the Festival, where a range of initiatives are in preparation including billboards; electronic media communications (web and mobile phone based), festival maps and flyers, all based on a joint branding approach.</li> <li>▪ There are a number of opportunities under consideration for occupying strategically located premises across the City as information centres.</li> <li>▪ Internally within <b>tie</b>, the process of moving towards the 'Contender' status is underway, and that the signs are positive in this regard.</li> <li>▪ Media coverage has been fairly extensive in the last period, although there have been instances where a more cohesive approach to reporting on tram related matters from Transport Scotland and Network Rail in regard to Gogar Interchange could have been improved upon. The relevant contacts have been made to ensure that this does not happen in isolation.</li> </ul> <p>DJM offered his personal thanks to MHL and her team who have been working tirelessly on improving the external perceptions of the project. AJ asked how Edinburgh compares to other Cities at a similar stage in the development of a light rail scheme, MHL noted that a benchmarking exercise is underway and will be reported in future papers to the Board.</p>	
<b>6.0</b>	<b>Building The Team</b>	
6.1	RJ briefly updated the Board on the process to implement the Organisational Effectiveness Model across <b>tie</b> , and reported referred the Board to the Paper prepared by Gordon Rae. The organisational values for the company will be developed during August and will be reported to the Board in due course.	
<b>7.0</b>	<b>The Future of tie</b>	
7.1	GB referred the Board to the paper outlining the remit of the Finance, Commercial and Legal Committee, which from this point will meet on a weekly basis. The governance arrangements are nearing finalisation with points of detail to be clarified around; composition of the Joint Board, and final drafting of the Operating Agreements. The agreed suite of documents will be presented to the next TPB meeting and DA will brief the cross party representatives on the proposed governance arrangements.	
<b>8.0</b>	<b>Sub-committee updates</b>	
8.1	No updates were presented.	
<b>9.0</b>	<b>AOB</b>	
9.1	SB to arrange for a site tour for the Board and provide a range of suitable dates.	
9.2	DJM thanked the Board for their participation and input, and the meeting closed at 13:10.	
<b>10.0</b>	<b>Date of Next Meeting</b>	
10.1	The date of the next meeting will be <b>Wednesday 26<sup>th</sup> August 2009</b> commencing at <b>09:30hrs</b> .	

Prepared by Alasdair Sim on 31<sup>st</sup> July 2009.

# Building The Tram Project Directors Report

## Period 5 09/10



HS&E ACCIDENTS and INCIDENTS SUMMARY											
Total	Total Hours	>3 day	Major	Injury	NM/Unsafe Condition	Service Damage	ENV	RTA	MOP	AFR	SFR
Period	108,377	0	0	2	14	8	2	0	5	0.00	7.38
13 period rolling	1,551,754	1	3	35	215	191	3	16	67	0.26	12.31

There have been no reportable accidents during Period 5. The Accident Frequency Rate remains at 0.26 for the 13 period rolling hours worked. Service strike frequency has decreased for the period from 13.4 (P4) to (7.4) P5, however, there has been an increase in service damage caused by Front Line Construction and Farrans during the period. There has been an increase in the number of “near misses” reported during Period 5 this appears mainly due to increased vigilance by **tie** staff as opposed to improved reporting from the contractors.

An inspection on CoCP compliance has been introduced by **tie** over the last 2 periods – see page 55. **tie** HSQE and project management have carried out 413 observations, of which there were 57 breaches noted. The average score for the inspections carried out was 88% compliance. Main issues noted were; Contractor not parking in designated areas and public signs with 0800 number not displayed in prominent area.

There were two environmental incidents reported during period 5, one of which was significant. The significant incident occurred at the site set up at Gogarburn. Farrans, working for BSC lost approximately 200 litres of diesel due to a leaking pipe from a bunded diesel tank to a generator. The incident has been reported to SEPA and a full report is awaited from BSC.

The Period 5 “Deliver a Safe Tram” inspection metrics were carried out on 2 activities in Princes Street, these activities involved Drainage and the Formation Improvement Layer beneath the track-form. Results for these 2 activities have shown slight improvement from the last period.

### Progress

As previously reported, following the failure to reach a satisfactory resolution to the outstanding contractual matters with BSC during the intensive mediation process held between 29 June and 6, the Tram Project Board (TPB) agreed on 29<sup>th</sup> July 2009 to elevate matters through the formal Dispute Resolution Procedures (DRP) available within the Contract. **tie** formally entered 2 issues into DRP on 11<sup>th</sup> August 2009.

Transport Scotland and City of Edinburgh Council were briefed on the implications of the TPB decision and this was reported on at the Council meeting on 20 August. Strong and full Council support was given to the strategy being adopted by **tie**.

The lack of an agreed commercial programme and the decision to apply formal contractual measures to resolve outstanding issues with the BSC consortium will present potential further risks in relation to the attribution of additional costs and delay to completion of the project. **tie** Ltd has taken extensive legal and technical advice, including Counsel's opinion, and is confident of its position on the key matters in dispute. However, given the nature of the process and the complexity of certain issues, it is unreasonable to expect that all adjudication outcomes will be awarded in favour of **tie** Ltd and it will also be open to the BSC consortium to use the contract formally to pursue their objectives.

We continue in this report to reflect an outturn estimate of £527.1m. However, given the commercial uncertainties with the Infraco and continuing delays to the project it is now considered unlikely that the full scope of Phase 1a will be completed within the available funding envelope of £545m. Until the key issues are resolved through the contractual and legal process, it will not be possible to forecast accurately a revised budget outturn. It is also not possible at the present time to predict the conclusions of reviews of contingency options programme delivery options, including possible additional sources of funding.

***The contract with the BSC consortium prescribes a timetable for resolution of contractual disputes and it is expected that the budget and programme implications will become increasingly clearer during the remainder of 2009.***

***Regular briefings will be provided to both CEC and Transport Scotland to keep them updated on progress and implications for the project programme and finances of all the above matters.***

The cost, programme and risk information in this period 5 report continues to be based unapproved forecast on the information reported in May 2009.

Overall progress remains behind the master programme, primarily due to:

- Finalisation of the agreement of change delaying the commencement of work;
- Incomplete utility diversions in the On-Street sections caused in part by traffic management constraints ;
- Slow mobilisation of INFRACO, including lack of formal sub-contracts being in place;
- Failure of INFRACO to submit preparatory paperwork in a timely manner i.e. Work Package Plans, Method Statements etc;
- Requirement for re-design of temporary works;
- Design slippage since novation of design to INFRACO (now recorded in v46 of the design programme);
- Design changes as a result of the Prior and Technical Approvals process; and
- Consortium integrated design programme and validation.

Programme is one of the remaining significant differences between the parties and **tie** continue to discuss the overall entitlement to extension with BSC as well as the production of a revised programme to assist with planning and monitoring.

The **tie** live programme currently predicts an Open for Revenue Service date of **October 2012**. This has slipped slightly since last period and is mainly due to the lack of progress being achieved by INFRACO across the route compounded by delays caused by Utility Diversions at Haymarket and Newhaven.

As per the previous period reporting **tie** retain an unapproved recalibrated baseline programme which reflects an Open for Revenue Service date of 23 Feb 2012. This remains a **tie** only view as to date a recalibrated programme although now submitted by INFRACO has not been agreed with BSC. **tie** has commented on submissions received from INFRACO and detailed discussions have continued with both teams to resolve the causes and effects of delay.

Progress – Design

# Transport Edinburgh

## Edinburgh Trams

### Lothian Buses

FOISA exempt

Yes  
 No

No new submissions have been lodged in the period. A summary of Prior and Technical Approval progress is presented below:

Phase 1a only	Number required		Number	
	v31	v47	Submitted	Granted
Prior Approvals	49	55 **	51 (93%)	50 (91%)
Technical Approvals	71	87*	77 (86%)	70 (80%)

\*7 additional TAA added in V46-V475 \*\*1 additional PAA in V47

Although there continues to be evidence of better management of SDS by BSC, this has not yet resulted in improved design performance. The approvals task force has been supplemented by a Design Progress and Design Issues meeting to provide additional management focus on design resolution. V47 includes a number of design integration activities and the impact of these is being discussed with Infraco.

### Progress – MUDFA

Progress on MUDFA works during Period 5 is presented below ( this excludes the remaining utility works being undertaken outwith the MUDFA contract on sections 1A & 7B):

Rev.08 Figures - Period 05 2009-10	Period		Delta	Cumulative		Delta
	Plan	Actual		Plan	Actual	
<b>MUDFA PERIOD 05 PROGRESS</b>						
Section 1a Newhaven to Foot of the Walk	0.0%	4.8%	4.8%	100.0%	100.0%	0.0%
Section 1b Foot of the Walk to McDonald Road	0.0%	0.0%	0.0%	100.0%	99.9%	-0.1%
Section 1c McDonald Road to Princes Street West	1.9%	4.3%	2.4%	100.0%	89.2%	-10.8%
Section 1d Princes Street West to Haymarket	0.4%	1.8%	1.5%	100.0%	96.5%	-3.5%
Combined Sections 1A-1B-1C-1D (On-Street) Newhaven Road to Haymarket	0.7%	2.6%	2.0%	100.0%	95.8%	-4.2%
Section 2 Haymarket to Roseburn Junction	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%
Section 5a Roseburn Junction to Balgreen Road	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%
Section 5b Balgreen Road to Edinburgh Park Central	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%
Section 5c Edinburgh Park Central to Gogarburn	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%
Section 6 Gogar Depot	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%
Section 7a Gogarburn to Edinburgh Airport	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%
Combined Sections 2A-5A-5B-5C-6A-7A (Off-Street) Haymarket to Edinburgh Airport	0.0%	0.0%	0.0%	100.0%	100.0%	0.0%
<b>FULL ROUTE PHASE 1A NEWHAVEN ROAD TO EDINBURGH AIRPORT</b>	<b>0.5%</b>	<b>2.1%</b>	<b>1.6%</b>	<b>100.0%</b>	<b>96.6%</b>	<b>-3.4%</b>

Key points to note are:

- Progress in the period has been slower than planned in those sections that MUDFA are working particularly at Broughton St & Haymarket junction. These poor productivity and performance levels can be attributed in part to underground obstructions and technical issues;
- Utilities diversion works for Section 1A are now out to tender. These works are not being carried out by Carillion;
- Utilities works in Section 1C (Broughton St) are being reviewed against Programme available space and TM requirements following the discovery of an uncharted Scottish Water sewer which may result in the redesign and relocation a number of utilities.
- Utilities diversion works for Section 1D continue between Haymarket and Shandwick Place although are being hindered partly by underground obstructions.
- Utilities diversion works for Section 7 were awarded to Farrans with works progressing during Period 05.
- All utilities works are complete in Sections 2, 5a, 5b, 5c and 6 are now complete.

### Progress – INFRACO

The project continues to experience problems with slow progress for INFRACO works and, in particular, the appointment of direct BSC resource and the final appointment of the main package contractors. The BSC sub-contractors continue to operate with Limited Letters of Intent whilst awaiting conclusion of the full sub-contracts. Slow provision of estimates and finalisation of the agreement of change - Base Date Design Information (BDDI) and IFC is delaying the commencement of works at various locations including at Haymarket Viaduct, Russell Road Bridge, Murrayfield pitches Retaining Wall, Baird Drive Retaining Wall, Carricknowe Bridge, Depot building and Tower Place bridge.

Progress during Period 5 can be summarised as follows:

#### Section 1C/1D: City Centre Princes Street:

- Track and carriageway works are continuing, including blinding, track improvement slab, track laying, track slab, central reserve works, OLE base work, carriageway formation prep, footpath works and kerbing.
- Access has now also been taken to the Mound area, following the completion of the bulk of the utility works, and the road surface has been planed and the underlying concrete broken out over the majority of the area.
- Pedestrian access routes opened on 03/08/09, for the duration of the Festival, to link the Mound with Hanover Street and Princes St West Gardens to both Frederick Street and Castle Street.
- Enabling works commenced late period 05 between South Charlotte St and Lothian Rd.

#### Section 5B Balgreen Road to Edinburgh Park Central:

- Trial holes/Preparation works at guided bus way section for piling works early in Period 06.
- Edinburgh Park Station Bridge: BSC continued to work on diaphragm construction and deck slab reinforcement;

#### Section 5C Edinburgh Park Central to Gogarburn:

- A8 underpass combined phase 1 & 2 programme has now been adopted. BSC are progressing with the site clearance and utility diversion; further work required to quantify scope of work required by Scottish Power to confirm status of existing cables. Construction methodology has been agreed with Telecoms companies for a re-commencement in period 06.

#### Section 6 Gogar Depot

- Depot - Earthworks have not recommenced since 23 June09. Further excavation will commence on BDDI to IFC Change agreement. The agreed total to date is **107607** cubic metres out of a total expected **141000** cubic metres (**76%**). Work due to commence:
  - Depot Access Rd - 17<sup>th</sup> August 2009
  - Depot Building Foundations 31<sup>st</sup> August 2009
  - Depot Building Steelwork 21<sup>st</sup> September 2009.

#### Section 7 Gogarburn to Edinburgh Airport

- Gogarburn Bridge replacement piers and capping beam being constructed. Pre-cast concrete beams due for delivery and installation early Period 06.
- Gogar Culvert No.1 due to recommence early Period 06
- Gogar Culvert No.3 due to recommence early Period 06

Progress is now being monitored against the Revision 1 programme. The summary milestones against the agreed INFRACO contract and the short term Rev 1 programme milestones are shown in the table below.

Milestones	Period 05		Cumulative (Short-Term)		Contract Planned to P05
	Planned	Actual	Planned	Actual	
<b>Prelims</b>	2	2	50	50	50
<b>Construction</b>	7	5	42	40	581

Progress – TRAMCO

Good progress continues to be made with the progress of deliverables against the schedule. The production line commenced during Q1 2009, with the modules for the first unit expected to be complete by the end of period 05. Testing of the first units remains on schedule for September 2009, with the delivery of the first tram still on schedule for April 2010.

Progress – Testing & Commissioning

The process for acceptance of the Edinburgh Tram is designed to ensure that it is delivered in an acceptably safe, compliant and efficient manner. This process is undertaken via the testing and commissioning regime to validate and verify the system against applicable standards. To this end, a number of processes are underway including:

- Design Assurance. This process being undertaken by BSC(SDS)/**tie**
- Quality Checking: 11 of the 37 BSC inspections and test plans are in progress
- Systems Safety: Safety verification plans are in place and this process of verification is underway with INFRACO, the ICP, TEL and Transdev all involved in the process.

BSC have produced Inspection and Test Plans (ITP's) for the current set of construction works, however they have not yet produced a consolidated Test and Commissioning Plan. Constituent elements are available from CAF, the tram manufacturer, the Operator and an overall framework from TEL exists to cover the activities.

It is intended over the next three periods to obtain collective engagement on testing and commissioning, and agreement to the formation of a project wide multi-disciplinary test coordination team as part of the "Preparing for Operations" key workstream.

Progress – Interface with 3<sup>rd</sup> Party Projects

**tie** and CEC identify other projects ongoing within the City that may impact on the tram project. This is reviewed on an ongoing basis both internally and with TS, to identify any conflicts and mitigations. The key projects to note in this regards are:

- With regard to the Gogar Surface Station promoted by Transport Scotland, **tie** has supported Network Rail and Transport Scotland in their review of options for the vertical circulation tower and connection between the heavy rail station and the tram stop. During this review SDS has put much of the design activity for the tram elements of the Gogar Interchange on hold to avoid abortive work. SDS has also not been able to start work on architectural elements due to the fact that the architectural concept for the buildings has not been confirmed by Network Rail. Work on the vertical and horizontal alignment of the tram track has been brought forward and SDS is completing the sighting study based on that alignment. The decision not to continue with design activity for scheme 4BB during the review of the base scheme design by Network Rail has meant that the tram elements are approximately 5 weeks in delay at present. If the Network Rail preferred option is chosen then there are opportunities to improve on the existing design programme and on the construction programme. **tie** will investigate these in Period 6 if the Network Rail preferred option is confirmed by Transport Scotland. To date approximately £80K has been expended on SDS design fees to date.



## Transport Edinburgh

### Edinburgh Trams

#### Lothian Buses

FOISA exempt

Yes  
 No

- The redevelopment of the St James Centre, which has been downgraded from red to amber in the period as commencement for this project is expected to take place towards the completion of the tramworks.
- CEC/**tie** and NR are currently in discussion over agreeing a process to accommodate traffic management arrangements for the construction of the Waverley Steps following withdrawal of the objection to the TAWs order.

#### Progress – Other

##### Temporary traffic regulation orders (TTROs)

- Weekly visual summary being produced of all tram traffic management throughout the city.
- Successful switch of traffic for utilities works at Haymarket during Period 5.
- Traffic management planning ongoing for Princes St Phase 3, Haymarket and Picardy Place.

##### Traffic regulation orders (TROs)

- A TRO programme is in place to ensure that the first order TRO 1, which will allow for operation of the tram system, is made by October 2010. The informal consultation process for this has been completed and BSC have incorporate minor design revisions into the final design. **tie** received a set of TRO drawings on 19 August 2009, this enabling the statutory consultation process to commence (expected during September 2009).

##### Network Rail

- INFRACO has now delivered its EMC Management Plan and EMC Strategy for NR infrastructure assets and established the scope for the immunisation works. A programme for these works is being developed with INFRACO;
- INFRACO will be developing the full assurance case for NR acceptance. Preliminary assurance case to enable traction power testing and commissioning will be completed by August 2009. Further assurance will be provided up to, and including, bringing into service;

##### Third party interfaces

- NR – the Bridge Agreements are not yet concluded. There is an outstanding issue on indemnities to close out. CEC are taking this matter up directly with TS and the ORR. The Operating Agreement draft with NR is currently on hold pending resolution of the same indemnities issue that is concerning CEC with the Bridge Agreement. Both matters are with CEC for resolution.
- Forth Ports – have introduced a new clause into the Agreement drafting which seeks to link payment for the Tram works with the Planning Approval for the Leith Harbour Development, this is unacceptable to CEC and the matter has been raised for resolution at a senior level.
- Haymarket car park compensation – **tie** have agreed compensation with NR and will settle this in Q1 09/10. **tie** continue to discuss with TS the additional compensation payable to First ScotRail, as a result of the extension of the FSR franchise from Nov 2011 to Nov 2014, as it is believed to be a TS cost;
- Building fixings – deemed consent has been obtained from 306 owners as well as 66 consents with the owners' agreement. There are twelve fixings where matters remain unresolved and CEC have committed to pursue these through Sheriff Court action. Dates for hearings are to be established. The building fixing construction programme will commence in Spring 2010;

##### BAA - Burnside Road (BAA)

- BRR: Raynesway Construction. Started on 10<sup>th</sup> August with mobilisation and advance works.

##### Section 7B Utilities

- MUD works – The MUD contractor (Farrans) continues on site with trial holes ongoing, RBC removal, and the trench excavated for the multi utilities services with new services being laid. Utilities exposed at Eastfield Avenue.

##### Hilton Car Park & Phase 1

- INFRACO – No works have commenced. Reviewable Tram Works Design (RTWD) Issued. BAA response received.

##### Section 1 Utilities

## Transport Edinburgh

### Edinburgh Trams

### Lothian Buses

FOISA exempt

Yes  
 No

- Invitation to Tender documents (ITT) sent to 5 companies (Farrans, Morrisons, Raynesway, Clancy Docwra and UUPLC). Tenders return due on end of August.

#### Fast link modifications (Front Line)

- Works completed.
- BT manhole is to be built after the Scottish Power cable has been diverted

#### Murrayfield Pitches (Souters)

- Final accounts now agreed. Subject to works being carried out during maintenance and establishment period.

#### Archaeological works at Constitution Street (Frontline):

- General excavation of the archaeological works site recommenced

### Cost

#### Current Financial Year

- The budget for Phase 1a in 2009/10 is £150.1m which has been produced linking the **tie** re-baselined programme to Infraco construction milestones. **tie** have escalated two key issues to Dispute Resolution Procedure (DRP) following the failure of mediation to bring both parties to an agreement. It is anticipated that a fully agreed programme will not be made available from the Infraco contractor until key DRP issues have been resolved.
- The current outturn of £150.1m is due to be fully re-assessed in period 6 in-line with **tie**'s latest internal view of programme and Project Managers view of Infraco deliverables in 2009/10.
- The unresolved commercial issues introduced a high degree of uncertainty of the outturn costs for financial year 09/10 in relation to activities which the Infraco may not start until commercial differences are resolved and **tie** may not have sufficient contractual leverage to instruct commencement. **tie** have assessed a range of sensitivities to the 09//10 forecast which indicate that current Infraco progress is likely to impact spend by between **-£5m to -£30m** in the year [see Section 3.1 Headline Cost Report].
- Funding available from TS for the project in 2009/10 is £149m. The TS share of this year's budget (£153.3m) is £140.6m, giving available headroom of £8.4m.

#### **Actual YTD P5 & forecast P6-P13 FY09/10**

£m	YTD P 5	Forecast P6 - P13,09/10	Total FY09/10
Infrastructure and vehicles	27.0	88.6	115.6
Utilities diversions	6.5	1.8	8.3
Design	1.1	1.4	2.5
Land and compensation	0.7	0.9	1.6
Resources and insurance	5.0	8.3	13.3
<b>Base costs</b>	<b>40.3</b>	<b>101.1</b>	<b>141.4</b>
Risk allowance	0.0	8.7	8.7
<b>Total Phase 1a</b>	<b>40.3</b>	<b>109.8</b>	<b>150.1</b>

- COWD to Period 5 is £40.3m (Period 4 £31.0m) against budget £40.9m. The main drivers for the £0.6m variance are: the timing of Infraco costs forecast in 2009/10 offset by MUDFA costs incurred over the original plan.
- Forecast payment of £3.2m was made to the Infraco Contractor in August relating to phase 1b costs.

Total Project Anticipated Forecast Cost**Re-baselined Phase 1a AFC and profiling**

£m	Cum FY07/08	Actual 08/09	FY 09/10	FY 10/11	FY 11/12	AFC
Infrastructure and vehicles	30.7	45.4	115.6	108.7	2.8	303.1
Utilities diversions	18.4	33.4	8.3	0.0	0.0	60.1
Design	21.4	4.7	2.5	1.1	0.1	29.8
Land and compensation	16.8	1.7	1.6	0.1	0.8	21.1
Resources and insurance	42.7	15.8	13.3	11.3	7.4	90.6
<b>Base costs</b>	<b>130.0</b>	<b>101.0</b>	<b>141.4</b>	<b>121.2</b>	<b>11.1</b>	<b>504.7</b>
Risk Allowance	0.0	0.0	8.7	10.7	3.0	22.4
<b>Total Phase 1a</b>	<b>130.0</b>	<b>101.0</b>	<b>150.1</b>	<b>131.9</b>	<b>14.1</b>	<b>527.1</b>
Phase 1b postponement	3.0	0.0	3.2	0.0	0.0	6.2
<b>Total Phase 1a and Phase 1b</b>	<b>133.1</b>	<b>101.0</b>	<b>153.3</b>	<b>131.9</b>	<b>14.1</b>	<b>533.3</b>

- The table above reflects the base costs and risks aligned to the **tie** re-baselined programme (Feb-12) and re-alignment of the Infraco milestones schedule. The AFC for Phase 1a above includes an unapproved increase of £15.1m to the project risk allowance. The approved cost estimate for delivery of Phase 1a of the project remains at £512m. The phasing of the £527.1m plan remains in-line with period 3 and will be updated in period 6 by **tie**, and following that when there is an updated agreed programme with the Infraco contractor.
- The latest forecast view includes £3.2m of costs relating to Phase 1b which crystallised as contractually payable to BSC due to the postponement of Phase 1b (this will require to be covered by current funding). Coupled with the re-baselined forecast, there is £11.7m of funding headroom within the £545m total funding available.

**Risk & Opportunity**

There were nine risk reviews held in the period. Four items were close on the Infraco concerns register and three risks closed on the Project Risk Register. There were fourteen risk draw downs approved in the period totaling £7,507,036. These are detailed later in this report. This leaves a risk and contingency balance of £9,512,072 (based upon the approved Project Risk Allowance at Financial Close).

From the Cost Quantative Risk Analysis undertaken during Period 5, the Project Risk Allocation has reduced by £7,507,036 in the period. The current Project Risk Allocation (based on the approved budget) is £9,512,072. All existing risks, as well as those recently added, are being reviewed to ensure the QRA output is as accurate as is reasonably possible. It is accepted that the additional risks and increase in QRA output are currently unapproved. These are within the unapproved range in costs provided to TS on 26<sup>th</sup> May. **tie** will continue to report on the risk allocation at Financial Close until a new budget (with an updated QRA) is approved.

**Communications/Customer Service****Media Features**

The press and broadcast media has produced a mix of positive and not so positive coverage on a wide range of topics in local and national press during this reporting period. Positive included:

- over 100,000 visitors to the tram mock-up since February
- commentary on the back of Network Rail's Gogar Interchange announcement
- the Council's front page leader in Scotsman in relation to the positive economic news for the city

Less positive coverage has been dominated towards the end of this period mainly as a result of reports of **tie** and its contractors entering into the Dispute Resolution Process over a number of

## **Transport Edinburgh**

### **Edinburgh Trams**

### **Lothian Buses**

FOISA exempt

Yes

No

outstanding issues. The coverage was in the main fairly balanced with minimal criticism of **tie** and the project generally.

#### Customer Service

Incoming correspondence during Period 5 totalled 398, a reasonably significant drop of 50 contacts compared to Period 4's total.

#### Public Information Planning

Online communication has evolved considerably over the last period, particularly with our entry into "Web 2.0" or social media networking sites such as Facebook and Twitter. There has been a substantial increase in visits to the tram website with 15382 hits being recorded this period against last period's 9252.

#### Partner and Stakeholder Communications

The Tramformer programme launches in schools at the end of August and presentations will be given to Primary 6 classes to recruit two children from each school.

#### Freedom of Information Requests – FOI

During this period a total of three new requests have been received under the Freedom of Information (Scotland) Act 2002 as well as two requests for reviews from previous responses. One application to the Scottish Information Commissioner's Office for appeal which is carried forward from the last reporting period is still pending.

#### Edinburgh Festival 2009

A range of measures are being implemented over the festivals period to ensure they can proceed as smoothly as possible while tram construction continues. These measures included:

- An alternative venue for the Festival Cavalcade
- Revised arrangements for the Festival Fireworks
- Improved pedestrian signage for routes across Princes Street and to venues
- Improved tidiness of construction sites and refreshed city promotion and information

An additional publicity and city promotion campaign was undertaken by the Council along with **tie** ltd, Festivals Edinburgh and Essential Edinburgh.

**Period 5 2009/10 – Papers for Consideration**

Paper to: TPB

Meeting date: 26 August 2009

Subject: Project change control update – Period 5, 2009/10

Preparer: Mark Hamill

**Summary**

This paper is intended to update the Tram Project Board with the current status regarding approved project change orders and their implications on the overall Tram Project Budget. To the end of Period 4, £13.3m had been drawn down from the original risk allowance of £30.3 at Financial Close. In Period 5, an additional £7.5m has been drawn down. The table below summarises the approved project changes that have financially impacted the project risk allowance since Financial Close in May 2008.

Description	Base cost	Risk	Total
<b>Position at Financial Close (PCB)</b>	<b>481,680,811</b>	<b>30,336,196</b>	<b>512,017,007</b>
Changes to end Period 4*	13,317,088	-13,317,088	0
<b>Position at end Period 4</b>	<b>494,997,899</b>	<b>17,019,108</b>	<b>512,017,007</b>
Period 5 changes	7,507,036	-7,507,036	0
<b>Position at end Period 4 (CAB)</b>	<b>502,504,935</b>	<b>9,512,072</b>	<b>512,017,007</b>

\*Reduced by £7,333 to account for subsequent reduction in COP071 – CEC Staff Costs Recharges

**Changes Approved in Period 5**Proposed Cycleway around Edinburgh Park Tramstop (COP107 – £52,095)

The original design reflected no continuous cycleway beyond the tramstop. The intention was that cyclists would dismount and cross the tramline prior to gaining access to the road south of the tramstop. tie/CEC proposed an alternative route partially located outside the LoD and providing a uninterrupted cycleway in this location.

Depot Steelwork and Foundations (COP110 - £318,155)

A BDDI-IFC change was agreed with BSC for additional steelwork and foundation impacts at the Depot.

Stray current monitoring (Capcis, Atkins & Frontline) (COP111 - £89,596)

There is a requirement to undertake a monitoring campaign to determine the baseline stray current interference level prior to the commencement of construction works.

SGN diversion A8 underpass (COP113 - £302,000)

SGN required a temporary diversion to allow the piling and road deck to be carried out prior to reinstatement in the carriageway. tie and SGN developed a solution which involved revising the permanent diversion route to ensure the most cost effective solution with the minimum interruption to the programme.

Utilities Risk Drawdown (COP114 - £6,761,000)

Please see separate paper.

Design Changes for MUDFA (COP115 - £44,223)

This change is for post-novation design changes relating to utility diversions.

Stage 1 Design Changes (10 no. - £294,062)

These are agreed design changes where the construction impact is not yet known but the design element has been instructed via letter (stage 1). In most cases there will be a construction impact (stage 2) and when this is known, the formal change order will be issued.

Gogar Roundabout Lighting	COP112	£4,985
South Gyle Access Bridge	COP116	£72,604
Murrayfield Stadium Retaining Wall- Pattered Finish	COP117	£3,243
Murrayfield Tramstop	COP118	£32,648
Redesign Gogarburn Retaining Wall	COP119	£48,620
Design Alternative to Haymarket Junction	COP120	£52,168
Gogarburn Retaining Wall finishes	COP121	£4,999
Shandwick Place CEC Preferential Treatment	COP123	£56,900
Shandwick Place CEC Preferential Treatment	COP124	£15,001
Preliminary Design		
Balgreen Road Bridge Amending, Technical Design	COP125	£2,894

**Decision(s) / support required**

The TPB is requested to:

1. Note the Project Change Control status at Period 5, and
2. Review and approve the additional paper on the Mudfa Risk Drawdown

**Proposed**

Name: Mark Hamill  
Title: Risk & Insurance Manager

Date: 26 August '009

**Recommended**

Name: Steven Bell  
Title: Tram Project Director

Date: 26 August 2009

**Approved**

.....  
David Mackay on behalf of the Tram Project Board

Date: .....

**Paper to: TPB**  
**Subject: Utilities Risk Drawdown**  
**Preparer: Mark Hamill**

**Meeting date: 26 August 2009**

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## Summary

This paper requests authorisation from the Tram Project Board to drawdown £6.8m from the project risk allowance.

The Board were advised at the meeting on 8 July 2009 that a number of commercial matters around delay and disruption claims were still to be resolved with CUS. At the 29 July 2009 Board meeting the Project Director informed the Board that a process had been agreed with CUS for addressing their measurement applications, with further dialogue planned to address CUS's approach on delay and disruption, with the impact and associated risks identified in the overall cost review.

Approval for this change is also being sought from CEC through the Edinburgh Tram Project - Status Report (Agenda item 8.3 (A) – Report Number: CEC/38/09-10/CD+F) at the full Council meeting on 20 August 2009.

This increase comprises a number of elements which will result in, as yet unconfirmed, additional costs. The key drivers behind this increase relate to:

1. Increase in prelims (£1.3m)
2. Measured works/change (£3.0m)
3. Enabling works (£0.9m)
4. Indexation costs (£0.9m)
5. Settlement of delay and disruption claims (£1.0m)

Of these elements, items 1 to 4 are directly related to the greater quantum of utility diversions required than originally anticipated and the prolonged programme due to greater complexity and traffic management challenges. Any proposed settlements (after negotiation with the contractor) under item 5 will be referred to the TMO for approval as required.

As the costs for the above issues are still to be agreed with the contractor, a range of figures for each item was developed by **tie** and a prudent view taken on each item (see Appendix A). It should be noted that the use of these additional funds will be monitored through **tie**'s internal change management process. This will be highlighted in future Board reports.

## Impact on programme

This change takes into account the current revised programme completion date of November 2009.



**Impact on budget**

This change is to increase the Mudfa AFC in line with all anticipated costs to the completion of the Mudfa works. The drawdown is required to increase the Approved Budget to accommodate the actual costs which may be incurred.

**Decision(s) / support required**

The TPB is requested to:

1. Formally approve the drawdown from risk of £6.8m.

**Proposed**

Name: Mark Hamill

Date: 26 August 2009

Title: Risk & Insurance Manager

**Recommended**

Name: Steven Bell

Date: 26 August 2009

Title: Tram Project Director

**Approved**

.....

Date: .....

David Mackay on behalf of the Tram Project Board

Appendix A – Utilities Change Estimate (Range)

£m	Appr'd Budget	Change	July 09 Base
Prelims	7.3	1.3	8.6
Measured work and change	27.3	3.0	30.3
Enabling	5.1	0.9	6.0
Indexation	0.9	0.9	1.8
Maintenance / Gain Share / Incentive	1.2	-	1.2
Delay & Disruption	2.2	1.0	3.2
<b>CUS scope (excl £4.1m depot excav'n)</b>	<b>44.0</b>	<b>7.2</b>	<b>51.2</b>
Outside CUS scope (S1A & 7)	3.1	-	3.1
SUCs	13.0	-	13.0
Betterment recovery	(6.8)	(0.4)	(7.2)
<b>Total Cost</b>	<b>53.3</b>	<b>6.8</b>	<b>60.1</b>

**Paper to:** TPB **Meeting date:** 26 August 2009  
**Subject:** Proposed Traffic Regulation Orders Strategy and Programme  
**Preparer:** Duncan Fraser

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**Summary:**

This paper follows on from the proposed TRO protocol paper to the TPB on 29 July 2009. This paper sets out the agreed TRO Strategy and programme with Council officials and **tie**.

**Introduction**

Following the last TPB, when the proposed Traffic Regulation Order (TRO) Protocol paper was approved in principle, it was agreed that there was to be a follow up meeting with the Council officials to agree the TRO process and programme. This has now been agreed and this paper presents the TRO Strategy and programme. This TRO Strategy and programme will also be presented to the TIE Committee on the 22 September 2009, with a recommendation to approve the TRO process and programme to be adopted.

**TRO Strategy**

The primary objective of the strategy is to make the TROs necessary to operate the tram to the business case while maintaining the necessary access for other road users. This TRO strategy is required to complete the process started when the Tram Acts were granted by Parliament in 2006.

This TRO strategy is also required because of the unique tram project circumstances. These unique circumstances are that the project is already committed to by the Council, is subject to the Council's approved business case and also the tram project is under construction.

Critically it is necessary to ensure that TRO 1, those orders necessary to operate the tram and provide reasonable access for all road users, is in place prior to the completion of the tram works. This is because Temporary Traffic Regulation orders (TTRO) are only *intra vires* during the works phase. Therefore the strategy must assure that TRO 1 orders are in place to enable the Council to manage and control the road network and avoid any gap in the regulation of the roads, along the on road sections of the tram route.

The TRO drawings are necessary to commence the statutory process and were provided to **tie** by BSC on 18 August 2009. They are the outcome of over 4 years of design work and have been subject to extensive public consultation, which in turn has been taken into account in the design where possible and appropriate.

The strategy agreed with the Council officials by **tie** is as follows:-

TRO 1 process:-

- TRO 1 will revoke all existing orders along the on road sections of the tram route and make new orders
- Adhere to the statutory minimum by consulting the 5 statutory Consultees only

- Be supported by a public information exercise involving the web site so that other public groups are informed of the TRO strategy and the relationship between the TROs; the programme and the key dates when information and drawings will be available; and importantly when objections can be made etc.
- CEC have instructed that site notices are to be placed and accept that there will be an additional cost and that this is not a legal requirement
- Public Deposit of the Order will be in line with usual Council practice
- It is accepted that there is no mandatory requirement to hold a public hearing.
- The TIE Committee will determine at the meeting whether to hear deputations. Tie has advised the Council that if deputations are to be heard then this would increase the risk of a legal challenge.
  
- TRO 2 process:- TRO 2 would promote any variations to TRO 1 orders that arise from design changes
- Should adhere to statutory requirements and normal customs and practices in the Council
- Should be the subject of further public consultation to draw on the actuality of TRO 1 implementation and experience, including monitoring outputs
- Should be supported by a similar public information exercise on the web site
- Could be subject of a public hearing, if Members decide

TRO 3 process:-

- TRO 3 would promote any variations to TRO 2 arising from operational and safety issues
- Should follow the review of tram operations during the commissioning period
- Should be the subject of further public consultation to draw on the actuality of TRO 2 implementation and experience, including monitoring outputs
- Should be supported by a similar public information exercise on the web site
- Could be subject of a public hearing, if Members decide

Further TROs:-

- Any further changes to the road network, along or adjacent to the tram route, would be promoted by CEC directly

TROs for wider area and off-street tram sections:-

- To be promoted for area wide network improvements and separate from the trams
- To be promoted for changes on roads along or adjacent to off-street sections of the tram

- These order can be promoted on an independent time scale to the tram TROs

**Cost and programme impact:**

Compliance with the TRO Strategy will avoid any delay to the operation of the tram and ensure that regulatory powers are in place to enable the Council, as Roads Authority, to manage the road network.

There are potential cost implications for **tie** promoting TRO 2 & 3 with respect to D&W, which will be reviewed subject to the Council's formal approval of the TRP Strategy. Design changes to TRO are captured under BSC current scope of work, however and future changes such as in TRO 3, would require additional funding. It is assumed that for budgeting purposes there will not be a public hearing and that CEC would resource further TROs after TRO 3.

**Programme**

The programme for implementation of the TRO Strategy is set out in the table below. It demonstrates that TRO 1 and 2 can be implemented prior to operating the tram. TRO 3 can be implemented as and when necessary and is not critical to the operation of the tram.

ITEM	DESCRIPTION	DATE
1	Statutory Consultation (28 day) on draft TRO1 Orders.	Start 12 Oct 2009
2	<b>Report outcome of statutory consultation</b> to Transport, Infrastructure and Environment Committee and <b>seek approval to place draft TRO1 Orders on public deposit.</b>	<b>9 Feb 2010</b> (or call Special Committee meeting)
3	<b>Public deposit (28 day) of draft TRO1 Orders</b> , i.e. advertise Orders and invite comments and/or objections from the public.	<b>22 Feb 2010</b>
4	Report outcome of public consultation to Council and seek approval to make TRO1 Orders.	June 2010
5	<b>Make TRO1 Orders.</b>	<b>July 2010</b>
6	Consider comments on and objections to TRO1 and promote a variation Order (TRO2), as appropriate. Off-street tram TROs and wider area road network TROs will be promoted at the same time.	July 2010 onwards
7	Review tram operation during the tram commissioning period and promote variation Order (TRO3), as necessary.	Oct 2011 onwards

**Recommendation:**

The TPB to note the TRO Strategy and programme is agreed with CEC officials and will be delivered by the Council supported by **tie**, subject to Council TIE committee's approval on 22 September 2009.

**Proposed:** Name: Duncan Fraser Date: 26 August 2009  
Title: Roads and TRO Manager

**Recommended:** Name: Susan Clark Date:  
Title: Deputy Tram Project Director

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

**Paper to: TPB  
2009**

**Meeting date: 26 August**

**Subject: Financial, Commercial & Legal sub-committee (FCL)**

**Preparer: Graeme Bissett**

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## **Summary**

This paper is intended to update the Tram Project Board with the current remit of Financial, Commercial & Legal sub-committee (FCL).

The FCL Committee was formally established as a sub-committee of the Tram Project Board with a remit to oversee financial, commercial and legal process and issues management, but without delegated decision-making authority. The formal remit is attached for reference. In the course of 2009, an increasing requirement for active commercial and contractual management has developed in response to failure by the main construction contractor to adhere to contract terms and normal rules of professional construction management procedure.

It is therefore proposed that the FCL Committee should take a leading role on behalf of the TPB in overseeing the resolution of the disputed areas. This will involve weekly meetings while there is an active resolution process underway with the objective of achieving project programme and cost certainty within a reasonable risk tolerance.

The FCL Committee will focus on:

- Assessment of the legal strategy deployed to resolve the disputed issues
- Monitoring of the legal and commercial mechanisms designed to resolve specific material issues including the timing and means of their deployment
- Assessing the financial and risk implications of the specific material issues
- Monitoring progress and assessment of proposed resolution terms

The range of material issues under dispute is captured in a discrete manner within a suite of documents (the "Resolution Strategy document") which will be kept up to date as disputed matters evolve. The approach was approved by the TPB on 29.7.09. At the same meeting, authority was granted to the Project SRO (the Chief Executive) to execute the strategy in consultation with the FCL sub-committee. The delegated authority of the Project SRO in this context is therefore:

1. Approval to implement legal and commercial strategies and mechanisms aimed at the resolution of specific material issues, as set out in the Resolution Strategy
2. Approval to conclude matters where the project cost impact is less than £1m relative to the approved AFC of £512m and / or where the programme impact relative to the approved revenue commencement date of July 2011 is





FOISA exempt

Yes  
 No

## Primary risk register

FOISA exempt

Yes  
 No

FOISA exempt

Yes  
 No

FOISA exempt

Yes  
 No

## **Period 5 Transport Scotland report Sections 2-7**

On following pages are Sections 2-7 of the Transport Scotland report (Section 1 is the Project Directors report).