Edinburgh Tram Inquiry Office Use Only
Witness Name: Neil Renilson
Dated: 11/05/17

SCIC

The Edinburgh Tram Inquiry

Witness Statement of Neil John Renilson

My full name is Neil John Renilson. I am aged 62, my date of birth being [redacted]. My contact details are known to the Inquiry.

My role in the tram project was as the Chief Executive of Transport Edinburgh Limited, and other associated companies, until December 2008. My main duties and responsibilities were for the operation of the city's public transport system.

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Preamble

2. I will start by saying I sense the inquiry is looking in great detail at all the documentation associated with the tram project, and in particular the contracts.

3. There were undoubtedly flaws in the contract documentation. To my mind the primary reason for the problems the tram project experienced are not to be found in a forensic examination of the contracts. They are in the people. No contract documentation is ever absolutely perfect, and the tram contracts were not perfect, but if you have competent, skilled, professional, experienced and properly motivated staff on both sides they can achieve the desired outcome by working round and through the paperwork defects.

4. Good people can deliver even with faulty contracts.

5. Incompetent people can louse up a project with perfect contract documentation.

6. Incompetent people with faulty documentation is a virtual guarantee of failure., and so it was with the tram.

Role

7. From late 1998 I was party to various discussions and meetings about a number of different Edinburgh transport projects. I joined Lothian Buses PLC in February 1999 as Chief Executive. Prior to Lothian Buses, I was Chairman of Stagecoach's Scottish and African operations. I have provided the Inquiry with a copy of my CV: (**CVS00000009**).

8. I joined the Stagecoach group in 1988 when it was a private company owned by Brian Souter and Ann Gloag. I invested money in it at that time. When I left in 1998 Stagecoach was a FTSE 100 company, and my relatively modest investment had left me financially independent. Thus at the age of 43, was in a situation where I did not need to work. I was not ready to retire, I still wanted to do something. The timing of the Lothian Buses job becoming available suited me very well. I was born and brought up in Edinburgh. I always had an interest in transport, and had spent my entire working life in public transport. I had worked in the City Council Transport Department for 2 years immediately after I left school before going to university. I had been living in Perthshire for 10 years while I was working at Stagecoach, and this opportunity gave me the chance to come back to Edinburgh.

9. I saw the opportunity of running Edinburgh's transport system as very attractive. I knew the then Convenor of Transport, David Begg. David was very proactive and we got on well together. He had many ideas for how transport in Edinburgh could be improved. The potential of working with David to improve transport in the city was really most appealing.

10. My role at Lothian Buses was to oversee the company in all aspects of its operations, to provide, along with the rest of the management team, the strategic direction, to monitor performance and to liaise with politicians, both local and national. I was charged with running an efficient transport system that met the needs of the people, met the aspirations of the shareholders, primarily City of Edinburgh Council ("CEC") and provide a revenue stream to the shareholders via their dividends.

11. For the first seven or so years the job was great and I really enjoyed it. I felt as if we were delivering improvements and doing some good. For example we moved from a system where there were 7 different adult single fares to a flat fare. We brought in smartcards and day tickets, which speeded up boarding and we increased annual passenger numbers from 74 million to 115 million. We also had a period of enhanced competitive activity from First Bus in the city, but we survived, and First backed off. I was getting a lot of help, backing and co-operation from the politicians and we were making good progress.

12. My involvement with the tram increased over the years. When I first started I was full time on buses: there was no tram, the tram scheme started to emerge in 2001/2002. By about 2006 the majority of my time was being spent on tram. I attended the Transport Initiatives Edinburgh ("TIE") Board but I am not an engineer, and the physical construction aspects of the project were very much down to TIE. I attended so that I could provide operational input, and specify the features and requirements necessary to make the tram an attractive travel option for the public. I would have operational and financial responsibility for the tram once construction was completed. In essence TIE were to build it, and once completed TE would operate it. It was envisaged that TIE would have no ongoing role in the tram once operation had commenced. I provided scrutiny on decisions that were being made surrounding issues that related to my areas. It was not abstract scrutiny; it was active participation. I was involved in formulating the policy, ideas, concepts and detail. My role on the TIE Board was far more than reading the Board papers and attending board meetings

13. I was involved with the Tram Project Board ("TPB") from its inception, or not very long after. The TPB minutes will show that.

Central Edinburgh Guided Rapid Transport scheme

14. There was no tram project at the time of my arrival at Lothian Buses in 1998. The project to create the Central Edinburgh Rapid Transport scheme ("CERT") was on-going at that time. That project died in 2000 when the successful contractor pulled out. The other companies who had been on the CERT bidder shortlist were approached, but none of them wanted to come back in. Somewhere in the region of £10m had been spent on the project before it was abandoned.

15. The CERT project had been promoted by CEC. When it died, CEC moved on to look for another major transport project. Various options were considered and ultimately a tram was decided upon. This was not the first time trams had appeared on the agenda in Edinburgh. There had been serious council led proposals for trams, an underground railway and a metro system a number of times since the early post war years.

16. CEC put out a contract for an operator to run CERT. First Group, who were LB's main competitor at that time, were awarded the contract. That resulted in there potentially being new and additional direct competition to LB on many routes.

17. LB's reaction at that point, which was before I got there, was not surprisingly, negative. LB introduced revised services that followed the route of CERT and ran those routes on high frequency with new single deck buses. First Group realised that they were going to face significant competition and walked away from CERT. CEC then went back to the other bidders but none was interested in taking on the contract and that was the end of CERT. The whole project resulted in CEC losing in the region £10m. CERT was envisaged to be an operation that would run in direct competition with LB's, rather than working

with LB. Thus it was the opposite of an integrated transport system. CEC were not pursuing an integration policy at that time.

Tram Project

18. I became involved in the tram project before it was even a project, it was just a concept. In 1999 we were looking at all sorts of different schemes we could implement to improve public transport in Edinburgh. Shortly thereafter CEC started looking at a tram project. Edinburgh had, and has, a pretty good bus service by the standards of most British cities. It has fairly frequent buses, an extensive route network, high quality buses, reasonable fares, etc. The tram project was not initiated to fulfil an obvious transport need, it was initiated at a time when many cities wanted to have a grand infrastructure project and there seemed to be some rivalry between cities many of whom were seeking a " grands projet ". The embryonic tram proposal fitted in well with this desire as the CERT project had just died, and there was the ribbon of land that had been the CERT route, that was now available for another transport use.

19. When I first became involved in the proposals there was no TIE or Transport Edinburgh Ltd ("TEL"), it was just CEC officers working up a tram scheme. External advisors were involved in the civils side of things: bridge design, earth works, utilities diversion etc. I was not involved in the technical detail of the engineering side of things, rather on the concept, broad approach and direction. The external advisors I was most closely involved with were those dealing with the tram vehicles and passenger facilities. I was also involved with PricewaterhouseCoopers ("PWC") who had been engaged to deal with the revenue projections and business plan side of things.

20. When you treat your external advisors on the basis that here is the answer we want, now go away and come up with a report that reaches that conclusion, and just remember who is paying you, there is probably not a lot of point in engaging external advisors.

TIE

Creation

21. Over the post war years there had been many proposals for major transport schemes in Edinburgh. One example was the inner ring road which would have involved an elevated motorway from Lothian Road, through Tollcross and the Meadows and down the Pleasance. That project was in the 1960's. and resulted in large areas of enabling preparatory demolition but, ultimately, the project was not undertaken. There was a project for trams, there was a project for a metro, which would have been an underground railway involving tunnelling under Princes Street and the New Town, and there was the West Relief Road. The WRR was fundamentally a motorway down pretty much the line of CERT, and later the tram route, following the railway line from Haymarket out to where Hermiston Gate now is. None of these projects came to fruition.

22. After the CERT project collapsed there was a lack of trust in government of CEC's ability to deliver transport projects, and of their being entrusted with another project as they had failed to deliver on past projects. Sarah Boyack and Wendy Alexander were the Scottish Transport Ministers at the time and they insisted any future transport project which received government funding would not be run by CEC directly. It would have to be run more professionally, and a special purpose council owned company, rather than council officers directly, was seen to be the way forward. I was party to some of these discussions involving politicians at both CEC and at Scottish National level

23. Out of all of this, TIE emerged as the arms-length special purpose company.

24. TIE's role was to develop and deliver transport projects in Edinburgh and the surrounding areas. It was an arms-length company owned by CEC. TIE did not run in the same way that a CEC Department does. Its management and staff had much more freedom to make decisions and run the business as they wished than council officers and staff do.

25. When TIE was first established it had three or four staff, and rented offices in Hanover Street. I attended their offices regularly for meetings and discussions with TIE and CEC who were looking at potential tram routes. I was involved in the development of the scheme, including where the tram would or could run.

TIE structure

26. TIE's board included four non-executive Directors. John Richards, who was Finance Director at Miller Homes, Jim Brown, from Scottish Water, Gavin Gemmell from fund manager Baillie Gifford, Scottish Widows and Lloyds TSB, and Ewan Brown of Noble Grossart. Ewan was Chairman, and had been a non-executive Director of Stagecoach since the 1980s. He was a merchant banker and a financier and had no operational experience of transport. To the best of my knowledge none of the other three had any transport experience. John Richards was a director of a construction company; but his role there was on the finance side. Miller were heavily involved in housing, retail and commercial developments, major road building or transport infrastructure projects was not their specialisation. There appeared to be a lack of any significant relevant experience other than financial on the Board of TIE. There was no individual with a track record in public transport design, public transport operation or major civil engineering works relevant to delivering a large scale transport project. Right from the beginning that was a concern of mine, and is in my view, the first fundamental error made.

27. For a long time, from the inception of the TIE, none its staff were TIE board members. For example the Chief Executive and Finance Director were not on the board which comprised only the four councillors and the four non execs. There were a number of TIE staff whose job title included the word Director but they were not a Director of the company and did not attend board meetings. They were thus paid employees and were not bound by the directors provisions of the Company's Act. That always seemed strange to me.

28. I attended TIE Board meetings from about a year after its formation. When TIE was set up in 2002 it was very much feeling its way. It was established as an off-the-shelf company and it took some time before officers and staff were appointed, and further time before the company started to function meaningfully. I could not say when TIE was legally incorporated, it is probably not that important. What is more important is when TIE actually started to function which was a couple of months before it moved from Hanover Street to Verity House – Late 2002/early 2003 I think. I attended TIE Board meetings from then on until I left. I also attended the TPB although the TPB did not commence until some time later.

29. TIE's horizons and aspirations were broad. It was not just about delivering the Edinburgh tram project. In the beginning it was seen as having lots more to do. TIE was involved in organising the congestion charge scheme. There was a referendum on congestion charging and the result was 3:1 against, so that was the end of congestion charging. Some of the other projects TIE became involved in were the Edinburgh Airport Rail Link ("EARL") , Ingliston Park & Ride, administration of One Ticket, and the Stirling/Alloa/Kincardine rail reopening project ("SAK"). TIE was failing to deliver satisfactory progress on SAK and were removed from it by the Government and the project was taken over by Transport Scotland. I recall TIE even got involved in a contract to operate the bin lorries in Stirling, although that never actually came to fruition.

30. In my opinion the initial TIE board of four Councillors and four non-executives, lacked the required transport and engineering knowledge, experience or expertise to hold the TIE officers to account or fully understood what the TIE officers were doing. They were unable to quiz them on their actions. In due course some people with considerable transport experience joined the TIE board, including Brian Cox, Peter Strachan and Neil Scales. That however that was some years later.

Agenda

31. One concern about a number of externally recruited TIE staff was they had endured periods of unemployment, and were highly motivated to keep their

jobs. The tram scheme was frequently, even from the early days, under threat. It was always an issue at both local and Scottish elections. There was always the belief amongst TIE employees that the project could be cancelled and they would lose their jobs. That situation led to a number of things, including making sure in the run up to elections that there was no bad news. During those periods, delays, overspends and problems were diligently suppressed from politicians and the media, sometimes for six or nine months. Key CEC officers, e.g. Andrew Holmes and Keith Rimmer knew what was going on, but I am pretty sure they kept it to themselves. There was always a fear when an election was coming and things had to be kept quiet or otherwise the risk of cancellation would increase.

My role

32. I was trying to develop and steer the tram to ensure it delivered maximum benefit to the city's transport system. I wanted to do my bit to ensure we achieved that. Frequently when I raised concerns, or suggested other ways of doing things it was suggested I was being negative, when in reality all I was doing was highlighting issues that needed to be addressed.

33. This raises one of the most fundamental issues at the heart of the tram scheme.

34. TIE were charged with delivering the tram, and only that. They had no responsibility for any other transport issues in Edinburgh. I was charged with developing the optimal public transport system in toto for the city. Hence we had differing objectives and differences were inevitable.

35. Formally, I received information and updates from TIE in Board papers and meetings and other meetings I was present at. Informally, I shared offices with TIE and was in discussion with their staff all the time.

36. I had concerns about TIE's reporting including, in particular, whether information was always fully and accurately reported. There were a number of

close calls when the project came close to being cancelled. It received considerable negative publicity in the local media, and there was a groundswell of negativity amongst the population and the electorate. Anybody who did not show blind faith in what was being proposed was viewed as being negative and against the project, rather than being viewed as having, perhaps, something to contribute and that perhaps not everything was being done as well as it could have been

37. Information and reports produced by TIE were only checked, or validated, by TEL if they directly involved TEL. If it was a financial matter, it would go through Norman Strachan, if it was operational through Bill Campbell, or if it was strategic through David Mackay.

Recruitment

38. I was not responsible for the selection of the directors at TIE. I recollect hose appointments were made by Andrew Holmes and Michael Howell in consultation with Ewan Brown, who had previously been identified as Chairman. The other 3 non execs were senior figures in the Edinburgh business community. The councillors initially appointed were Cllrs Jackson (Conservative), McIntosh (Lib Dem) and Burns (Labour) all of whom carried the transport portfolio for their party, and Child (Labour) who was convenor of Finance .

39. TIE recruited staff from two sources. Firstly, there were staff who were transferred from CEC. Some of these were perfectly good people. However, the transfer process was also seen as an opportunity by some in CEC to rid themselves of certain employees who were deemed to be sub-standard performers. I recall one instance where a fairly senior CEC officer who was in a supernumerary role was transferred to TIE – before the transfer he was in line to be given a severance package. TIE appeared to be used on some occasions as a home for staff who, for whatever reason, CEC did not want. That situation was not at all what had been envisaged, and I remember one senior politician being quite annoyed by what had happened. Another

commented that it was reminiscent of when Clinton said any Cuban was welcome in the US, and Castro emptied his jails and asylums onto boats and sent them to Florida.

40. The second group of staff at TIE were people who were recruited directly. I was not party to the recruitment process and I never really understood how it was conducted. There were people recruited who were perfectly acceptable. However, there were also some persons who had lacklustre career histories. Some staff TIE recruited came not from another job, but from the ranks of those looking for another job, who were “available now”. It appeared TIE recruited from those who were available on the labour market, rather than advertising widely, and head hunting. I was advised this was because TIE needed to ”staff up very quickly”, and could not wait for people who had 3 or 6 month notice periods to serve.

41. The transfer of staff from CEC to TIE is where some of the bad blood between TIE and CEC came from. The people who were transferred from CEC to TIE were initially transferred on their existing terms and conditions. Some of those who transferred onto TIE’s payroll in fairly short order received significant pay increases, and were eligible for salary bonuses. Bonus payments were not paid by CEC to its own staff. TIE adopted a more liberal approach to remuneration, which led to a lot of bad blood with CEC. People who were left at the CEC had previously sat beside people who had been transferred, and some of those transferred were viewed by the remaining CEC staff as not up to much. When those persons achieved a pay increase far in excess of what their former colleagues received, this caused a lot of resentment, and the CEC staff felt pretty aggrieved by the situation.

Staff turnover

42. I felt there was a particularly high turnover in staff at TIE compared to my experience of other organisations. I am struggling to think of anybody senior who was there in 2002 and still there in 2009. Stewart Lockhart is the only one

who comes to mind. Graeme Bissett was always around but he was only part time, and I think engaged as a consultant, not employee. Stewart McGarrity was probably the longest-serving of anybody at a senior level. At some time he carried the title Finance Director, but was never a Director of the company

43. The constant changes at senior management level within TIE when I was there had the effect of creating constant instability. People would make light-hearted comments along the lines of "*I wonder who the Project Director is going to be this week*" and that sort of thing. Because Project Directors changed so frequently, the new chap would not know the history and would spend a while "getting 'up-to-speed', and then when he had got a grasp on things there would be another change. It led to ineffectual project leadership because for a fair bit of their tenure they were either new and still learning and still finding out the history, and why things were being done a particular way. If they were on their way out, they were not that motivated because they knew they were away at the end of next month. I almost lost count of how many Project Directors there were: Ian Kendall, Andie Harper, Matthew Crosse, Steven Bell,etc The average tenure seemed to be about 12 months.

Calibre of TIE staff

44. There were a number of senior level persons appointed to TIE about whom I had severe doubts over their background and abilities. Right from the start I was not overly impressed with the team that had been put together.

45. Most of the senior people at TIE had no connection with Edinburgh. They had no history with the city, no real knowledge of it and no commitment to it. To them it was just another job to do, and then move on.

46. This raises another fundamental problem that was there right from the start. TIE's time horizon with the tram was to design, procure, build and commission it. Once it was completed their involvement ceased, and they moved off to do other projects. My time horizon was "for ever" as we would be running it.

Hence that was a recipe for friction as TIE's interest was very short term, and ours very long term.

47. I had concerns about the performance of TIE both as an organisation and in relation to individual board members and employees. As regards individual Board members the problems were two-fold. 1) Many of the Councillor members had little or no experience of the issues they were being asked to decide on or get involved with. Some of them tried, some of them did not, some of them just treated it as yet another meeting to attend. Secondly there was a lack of continuity amongst Councillor board members, politicians always come and go as they win or lose at elections, that is a given with politicians, but internal party reshuffles of responsibilities led to further changes outwith elections. As regards individual employees, there were some who I had respect for who seemed to know what they were doing. There were some however, who appeared to have "an interesting employment history" whose track record suggested their abilities may be questionable.

48. With regards to whether there was anyone with experience of large scale infrastructure transport projects at TIE, Ian Kendall had spent five or more years working on the Croydon tram project. Steven Bell, Susan Clark and Geoff Gilbert all had relevant experience. Below that level in TIE I would not be able to pass comment because I was not sufficiently involved with them. My impression was there were competent people, but not enough of them and not at a high enough level. Graeme Bissett was part of the Edinburgh business community, he had been Finance Director at Kwik Fit with Tom Farmer and he was from Edinburgh. Although Graeme at one time carried the title Finance Director. Graeme was not on the board, but did attend board meetings. All the non-executives were conversant with Edinburgh; however, they had little transport knowledge. Ewan Brown had some knowledge through Stagecoach, and a previous board appointment at the Scottish Transport Group.

49. There were some very good people: David Powell, who dealt the tram vehicle procurement, knew his stuff. TIE had some good people at a midde level, there were few amongst the top echelons who inspired me.

50. I was one of the few people who was there from before the beginning. In ten years there were seven Transport Ministers – Sarah Boyack, Wendy Alexander, Iain Gray, Nicol Stephen, Tavish Scott, Stewart Stevenson and Keith Brown. That role had an average life expectancy of 18 months. In terms of Convenors of Transport, in the same ten years there were six – David Begg, Mark Lazarowicz, Andrew Burns, Rickie Henderson, Phil Wheeler and Gordon Mackenzie. There were four Chief Executives – Michael Howell, Willie Gallagher, David Mackay and then Richard Jeffrey. There was little consistency or continuity amongst the directors, politicians and senior staff who were involved in the project.

Willie Gallagher

51. Willie Gallagher was an industrial electrician to trade. He did not have any significant experience of public transport operations. I do not know the full detail of his time with Scottish Power, but he moved up through the ranks from blue collar to the rank of Area Technical Manager. He was in charge of the asset side of the business not the commercial side. Scottish Power had, in the past, taken over one of the English electric utility suppliers, Manweb based in Chester. There was a fairly major falling out between Willie and Scottish Power and they parted company. He set himself up as a one-man consultancy called, I think, Touchstone Services. Off the back of that he got some contract work in Northern Ireland advising on power distribution, and he landed a job as a non-executive on Network Rail's board, and a non-executive role at Lothian Buses. Willie is an affable character and he has Network Rail on his CV as a Director. I assume that role on Willie's CV, and his time at LB influenced Tom Aitchison in choosing him to succeed Michael Howell. Willie attended LB Board meetings regularly and made some contributions. He appeared to read the board papers the day before the meeting and come up with awkward or detailed questions to catch Executive Directors out. He knew

little about public transport, but picked things up quite quickly. Willie was always the first non-executive Director to get his expenses claim in. Most non-executive Directors gathered their expenses claims together and submitted them once every six months or once a year. Willie had his in the Finance Director's hand the day following the meeting.

52. I first met him when he was appointed as a non-Executive Director of LB. He was a director of LB from 1 January 2001 and 30 November 2008, a Director of TEL Ltd between 24 October 2005 and 30 November 2008. He attended Board meetings, took an interest and asked some intelligent questions. He lived in the West of Scotland and had not lived or worked in Edinburgh so was not familiar with the geography of the city. He was a perfectly adequate non-Executive Director of Lothian Buses.

53. I felt he had potentially more to contribute as a director of TIE than some of the other Directors. However as Chair and Chief Executive of TIE he appeared not to have the drive, breadth of knowledge, charisma or gravitas necessary. You needed to have a full set of back-teeth to do that job. Willie did not.

54. I have no recollection of discussing Mr Gallagher's appointment to any of these positions with Tom Aitchison. I would not have had any problem with him being appointed as a Director of TIE, I was quite comfortable with that. As regards his elevation to Chair and Chief Executive, I was considerably less comfortable. My fears were realised when it became clear that he was out of his depth and not the right man for the job.

55. Following the removal of Michael Howell, instead of advertising the job in the trade press and going through a serious recruitment process, Willie said he was rung up and asked if he wanted the job. His appointment was a short term fix as it solved the Howell problem as we were no longer dealing with a buffoon. However it did not solve the leadership problem as Willie appeared to be way out of his depth and had been promoted to a position beyond his abilities and skillset. I assume the instant appointment was made because things were already going badly for the project and CEC wanted someone in place tomorrow, not in 6 months time. Recruit in haste – repent at leisure.

Ian Kendall

56. The structure of Edinburgh's transport was not widely understood in the transport industry. I was known to be LB, and some people assumed I was i.c. the tram project also.

Ian Kendall was appointed as the first Project Director. He had previously worked on the tram project in Croydon. Shortly after his appointment was announced I recall receiving a phone call from Sir Peter Hendy, the then Commissioner for Transport in London who I knew from industry contact and trade body meetings. He asked me whether I had recruited Ian Kendall. I explained that I had not been involved in recruiting him; he had been recruited by TIE, the company responsible for building the tramway. Peter informed me that Ian Kendall was *"absolute poison"* and *"useless"* and that he had spent the past four years trying to get rid of Kendall. He went on to say that Ian Kendall was *"worse than useless, he is dangerous"*. To have someone of the status of Peter Hendy, Head of London Transport, ring you up and say those things gives a flavour of some of the people that ended up at TIE.

Michael Howell

57. Michael Howell's main interest appeared to be to empire build TIE, create more jobs and recruit more people. During the run up to the congestion charging referendum I remember him gathering all the staff together in the open plan office at Verity House, there were maybe about 25 people in the room. He jumped up on top of a desk and informed the room that everybody at TIE should get out and about and meet people and do everything they could to persuade them to vote yes. He stated it was vitally important that the outcome of the referendum was a yes vote because that would mean all their jobs would be secure, TIE could employ lots more people and fill the office up with staff working for TIE. He seemed to view TIE as a job creation scheme and the bigger the company the more important a person he would be. Michael was full of his own importance. I recall him giving evidence in Holyrood at one of the committee sessions considering the Tram Bills. He was

asked to start by introducing himself. He went on so long listing all his academic achievements, business successes, etc. that Jackie Baillie MSP had to interrupt him and remind him that the committee wanted to hear about the tram, not about how clever he was. That committee session summarised him: an affable buffoon. In due course Tom Aitchison removed him.

David Mackay

58. There were three people on the panel Recruitment Panel for the position of Chairman of TEL. David Mackay was appointed on a majority decision. I thought there were better qualified more experienced applicants. Keith Rimmer made an interesting statement about my preferred candidate, who was a former Chairman of a large public transport authority in Yorkshire, *" we don't want him, we don't want anybody with a transport background"*

59. In David Mackay we gained somebody who had no previous involvement in transport other than a couple of years as a clerk with the buses in Fife when he left school. I shared an office with David at Verity House and then City Point. Superficially I got on fine with David, I never really warmed to him but we rubbed along okay.

60. He had little knowledge of transport but wasn't afraid to ask, and he absorbed information quickly. He could be quite a powerful, indeed overbearing, individual at times. He was recruited on the basis of being a non-executive Chairman, working one day a week. Quickly it became clear that that was not his vision at all. He had retired quite early from John Menzies where he had been for many years in the wholesale paper distribution, retail, and airline ground handling businesses. After a short time he persuaded Tom Aitchison that he really needed to be working three days a week. He was very confident, and it was my perception that he needed to be back in the swing of things, he wasn't ready to put his feet up and play golf. The TEL role suited him because it had a high political and media profile. At the time he joined, the project had not yet become a complete disaster, although it was certainly having problems and getting some negative press coverage.

61. David Mackay would often ask me about certain detailed or technical matters, which werenot things a non transport person would know. I would explain what he wanted to know, he would make notes and go away. Then in another forum he would propound what I told him as if it was his idea. He was not subtle about it, sometimes I would be sat beside him when he did it. It was not long before he was working pretty much full time, and getting remunerated on that basis. Once Michael Howell had gone, David realised that in Willie Gallagher he had someone he could manipulate and influence, that suited him very well. In due course I discovered he had been bad-mouthing me behind my back. From that point on I treated him very much with kid gloves. I think there was resentment on his part about my knowledge and experience, and that I would stick to what I believed was best, even when that didn't suit him. I have had to deal with people who think they are more important and talented than they are in the past, so I got by.

62. I had been involved throughout the UK in my time with the National Bus Company and Stagecoach, who ran the trams in Sheffield. My involvement in Sheffield Trams was not great, but I did have some directly relevant tram experience and he appeared resentful that I knew a lot more about trams than him. I was careful not to upstage him; I just kept quiet and told him afterwards when he got something wrong. We shared an office and we got by. David did not like not getting his own way, and could be quite aggressive.

63. Latterly David made media comments such as *"the contractor from hell"* and similar. I do not think he should have publicly described Bilfinger Berger as a delinquent contractor. If things were not going his way he could lose his temper. In hindsight, he should not have been recruited; he was not the best person for the job. There was nothing more important to David Mackay than his own importance. I appreciate that I have given rather a long description of David, but he had an important part to play in the project. He was not a bridge builder or a team worker. His basic tenet was confrontation not negotiation. Tact and diplomacy were not his strong points.

TIE legal team

64. I attended many meetings with Gill Lindsay. I am not qualified to say anything other than she appeared to be a reasonably competent solicitor. Initially Eddie Bain was the Council Solicitor but he retired before things really got going. The lawyer who really counted was Andrew Fitchie, not Gill Lindsay.

65. Andrew Fitchie was not known in Edinburgh legal circles. When he started on the project I asked around the senior partners of some legal firms whether they knew him. The answer came back that he was not local and that DLA had brought him up from, I think, their Leeds Office to do the project. I assume DLA brought him up because he had relevant experience. I am not legally qualified so I cannot comment on his competence as a lawyer. From my own personal perspective the big issue with Andrew Fitchie was that he became part of the TIE team. He ended up accepting what TIE wanted to achieve and helping them along the way to achieve those aims. I think the tram project was his sole task at the time. There were other lower people involved in the project from DLA. What annoyed me was that he was clearly trying to deliver the tram irrespective of the other transport issues. In essence Andrew appeared to me to have "gone native"

66. In an email sent 13 November 2006 to Alastair Richards, I wrote something along the lines of *"such and such has happened, well it's gone, it's water under the bridge, the money's spent, there is nothing we can do about it, but it shouldn't come as any surprise because we all know Fitchie's a charlatan":* (**CEC01758206**). I should not really have put that in writing, but it gives a flavour of how he was viewed by TEL etc

67. **Relationship with CEC**

68. There were relationships between TIE and the Directors of City Development and Finance and with the Chief Executive. TIE also had a relationship with the Councillors, which was different to their relationship with the middle-ranking officers at CEC. TIE's relationship was different again with the Chief Executive. You cannot treat CEC as being a single entity in relation to the way

it interacted with TIE. TIE may have had a good relationship with the senior officers at CEC but a strained relationship with the politicians or vice versa. These relationships also changed over time. It is too simplistic to assume there was one relationship between TIE and CEC.

TIE culture

69. You are asking me to comment how well people within the project worked as a team. With my experience of working relationships in other organisations I would describe TIE as dysfunctional. People who should have worked together did not. There were good bits and bad bits. It was not a happy team, and there was always the Sword of Damocles hanging over them, the fear that the project would be cancelled and they would be out of a job again. The level of commitment among the staff to the project seemed variable.

70. One trait that seemed to be deeply implanted in the TIE psyche, was that they always tried to find somebody else to blame. It always had to be a contractor, the planners, or another party who was to blame, it was never TIE themselves. It really annoyed me that I was one of the people who was blamed. I was said to not be interested in the project because I was a 'busman'. It made no difference to me what the actual piece of machinery used to transport people was. My job was to provide an effective and efficient transport system for the city that met the publics' requirements as far as possible, within the overall framework of financial viability. If that was by train, Tram, Bus, Hovercraft, whatever it didn't matter, it was a case of using the best technology that was available to provide an integrated comprehensive and profitable transport system for the city. Horses for courses. It would be entirely illogical for me to favour one technology over another.

71. On many occasions I raised aspects of the tram scheme that were inconsistent with achieving those objectives *(a network-wide integrated comprehensive and profitable public transport system)*.I pointed out things that would impact on financial viability once it was operational. Whilst there was £500m of Government funding available for the tram and £45m of CEC

funding, that was one off capital funding to build it. There was not going to be any ongoing subsidy to pay for operating losses. Almost all of TIE's effort and attention was focused on building the tramway. Virtually no serious commitment was given to the post-opening period once the tram was operational. Once TIE handed over the keys, so to speak, they viewed their role finished. They gave warm words and made the right noises, but there was little substance behind them.

72. TEL had to ensure that the tram was self-financing once it was up and running. I and TEL were getting in the way, wanting things done differently to how TIE would prefer to do them. TIE was focused on delivering the tram, not the next 30 years of operation. I was portrayed as being negative and anti-tram, when what I was charged with doing was making sure that the City of Edinburgh Council did not end up lumbered with a loss-making tramway. It was not the objective to have something high profile that looked good for Edinburgh, but which did not pay its way.

73. Latterly there was much public anger about the project, TIE and CEC developed a sort of siege mentality, saying as little as possible and getting as little media coverage as possible.

74. Some of the TIE people had a certain arrogance and an unshakeable faith in their own abilities. They genuinely believed that they knew what they were doing and could deliver the project *"on time and on budget"*, and when it became blindingly obvious that things had gone badly wrong, they started the search for the guilty, followed by the punishment of the innocent.

Attitude to risk

75. TIE certainly did not take a conservative approach to risk, their approach was closer to gung-ho ! Again the right noises were made, the motions were gone through, a risk register prepared, and updated, and presented at every board meeting. At Board meetings we would go through the risk register. The checks and balances may have looked sound on paper but many of the real dangers were not listed e.g .the risk of a change in political perception of the project was not included.

76. TIE's corporate culture encouraged progress above everything else. The only thing that was important was keeping the tram project alive. Graeme Bissett frequently produced reports on corporate governance and risk management. The reports on risk were undermined by the culture that placed progressing the project before risk management and, indeed, pretty much everything else. The culture of progress at all costs meant that staff who were aware of how bad things were, were reluctant to raise the issues. My understanding was that TIE staff were financially incentivised via bonus payments to focus on progress. There were no bonuses for risk avoidance.

Remuneration

77. Bonus incentivisation was another issue with TIE as bonuses were based on achieving certain milestones or certain figures. This resulted in a situation where people were incentivised to appear to achieve when they had not. I believe Bonus achievement and payments were self-certified by TIE and there was no independent audit.

78. I cannot remember who was on the Remuneration Committee. I was not remunerated by TIE. I was remunerated by Lothian Buses. TIE's Remuneration Committee was not something that I, or any of my direct reports, were involved in. TEL was not a wage paying organisation; it drew its people on secondment.

Agenda

79. TIE told the Councillors what they wanted to hear. It reminded me of that sketch in Yes Minister where Hacker is told *"this is what's happening on that issue"* he expresses surprise and the Permanent Secretary says "*that's the truth, that is what's actually happening*" Hacker's response is *"I don't want the truth I want something I can tell Parliament".* Replace *parliament* with *the councillors* and you get the picture. TIE and certain CEC officials appeared to be singing out of the same hymn book. Both parties just wanted the tram built and completed, that was their primary objective, they were certainly far more interested in seeing the project completed than looking at the broader picture.

80. In my opinion the practical realities of putting in an integrated transport system for the people of Edinburgh were brushed aside, for the sake of putting in what had become a civic status project. There was a blind determination to progress the tram come what may.

81. There was a desire in TIE to not let it be known when things had gone wrong, as it would attract media attention and increase the chance of the project ending, and job losses. I believe it resulted in staff not highlighting problems internally. No news is good news.

82. Burying bad news was something that happened at TIE. Sometimes the PR & media people waited for a big news story elsewhere, to release updates and information to the media. This attitude of twisting things and not being straight, and open was totally alien to me

83. A clear example of bad news being supressed was the £375m cost figure. That was being stuck to for nine months after TIE knew the final cost was going to be way in excess of that figure. As soon as the election was out of the way that news came out very quickly.

84. Optimism Bias was a clear example of where figures were manipulated by TIE. TIE were aware of the percentage optimism bias that would be applied

by government. I cannot remember what the percentage figures were, but I do recall discussions in TIE where it was agreed that in the business plan cost figures would be reduced and revenue figures increased by the percentage which the government would apply optimism bias of. I.e. if an optimism bias of 20% would be applied to revenue, then the revenue figure was to be inflated by 20% before submission. Naturally this was not openly discussed and these discussions would certainly not be minuted. To my mind that manipulation was dishonest.

85. The Government Gateway Reviews, Audit Scotland and Transport Scotland were also "managed" by TIE. TIE were conscious that there were potential problems that might result in delay, reduction or cancellation of the tram scheme and did their best to ensure that the Office of Government Commerce (OGC), Audit Scotland and Transport Scotland were told what they wanted to hear. Information, facts, figures and timescales were massaged.

86. I think Transport Scotland was the more difficult organisation for TIE to do this with although it depended who in Transport Scotland they were dealing with. Bill Reeve was a knowledgeable chap who knew what was going on, or had a pretty good idea what was going on. John Ramsay was the TS staffer who spent the most time at TIE and he was relatively easy to bamboozle or throw off the scent as he knew very little about public transport. He may have known about building bridges but he certainly did not have a clue about public transport. My view was that what was presented to Transport Scotland was, at best, presented through rose tinted spectacles.

87. I cannot really comment on Audit Scotland, all I can say is that a reasonable person might suspect that if the OGC and Transport Scotland information was being massaged then the Audit Scotland info might well have been as also. TIE certainly had the same incentive to massage AS's information as they did for Transport Scotland or OGC.

Meeting materials

88. At TIE Board meetings in Verity House board papers were issued to Directors and attendees a couple of days before the meeting. When the meeting was finished, they had to be left in a pile on the table so they could be shredded. This was done so that there was no danger of anything in the papers leaking.

89. TIE's minutes were generally very lean. They contained when and where a meeting took place and who was there, but not much else beyond non contentious information. TIE was very careful with what went in them because the minutes became public. It was not that TIE heavily redacted their minutes; they just opted not to put it in to start with. You would maybe have an hour's debate about some issue, and receive the minutes for the meeting later on. The minutes would state would be something along the lines of, 'a thorough discussion of the issue took place'. They would provide no further detail than that. All minutes of the TIE Board and the TEL Board would be closely reviewed before issue.

Tram ordering

90. An example of TIE trying to force the hand of the funders was the ordering of the extra trams required to run line 1b (Haymarket to Granton). TIE knew that there was no funding available for line 1b, and thus very little chance of line 1b being built in the short or medium term. However, the trams to operate line 1b were ordered nonetheless. The hope was that they could be used as a lever to coerce CEC or the Scottish Executive (Government) /TS to find the extra funding for 1b – "we've already got the trams (and depot) so its daft not to build the line". 1b was as good as dead before TIE placed the order with CAF for the full set of trams in Spring 2008.

Tracks on Princes' Street

91. Another case of trying to force hands was the decision to lay the tracks on Princes Street before anywhere else. On any critical-path analysis Princes Street was one of the least critical bits of the project. It was easy to build, a

straight run along a clear road with very few utilities underneath it, (most of the main utilities are under George Street). Princes Street was a segment of the project that should feature as, say, stage 25 of a 30 stage critical path analysis timetable. There were major engineering works to undertake which were complex and would take a long time to build, e.g. the retaining walls at Russell Road, the bridges over the railway at Saughton and Edinburgh Park, dirt to be shifted and construction the depot at Gogar where the land was unstable. And the A8 underpass at Maybury. They were all substantial engineering and construction issues that required a long time frame from commencement to completion, there were other complicated and critical civil engineering elements of the project. There was absolutely no requirement to lay track on Princes Street that early on – it was a straightforward and simple job. However, it was one of the very first parts of the track to be laid. Why ? The TIE reasoning was that once they got the rails down on Princes Street the chances of the project being cancelled were greatly reduced. I was present at discussions within TIE where this was decided, on the grounds it would be far too embarrassing for the Government or CEC to cancel a project if the rails were laid on the main street of the capital city.

92. There was substantial business, general public and media negativity towards the project. A couple of the major retailers were quite positive about the tram but when Princes Street was a building site for a prolonged period there was a dramatic drop in footfall and the retailers' lost significant revenue. The bigger stores, John Lewis, Marks & Spencer, and Harvey Nicols publicly took the view that it would be worth it in the end, but privately let it be known they did not want to get on the wrong side of CEC by not giving supportive statements when asked to do so. Some of the smaller shopkeepers suffered greatly. The tram construction was a major problem for the retailers and a lot of pressure was put on the Council resulting in affected retailers getting a partial rates rebate. The retailers were causing a lot of negativity in the media and a lot of problems to the Council. There were adverts placed by the Almond Centre in Livingston saying things along the lines of *"No trams in Livingston – no parking problems – come and shop here"*. That really got under the skin of the retailers in Edinburgh.

93. Jenny Dawe, the leader of the Council at the time, told TIE that the Princes Street site had to be cleared by the first of December. Princes Street was then laid in such a rush that it had to be dug up and done again a second time. The contractor raised concerns about potential weather conditions. TIE said that did not matter, and told the contractor to go ahead and do the work whatever the weather. I personally witnessed late one evening the contractor pouring asphalt top surface, onto the base course, which was under about 4 inches of water. This was because they had been instructed to get it finished for the set date. Once the road was reopened and traffic returned the road surface broke up. It later had to be lifted and relaid. That work should never have started in the autumn. Christmas is the key time for retailers. The work should been commenced in January and planned to be finished well before the Festival.

Impact of disruption

94. Members of the public and businesses raised concerns and grievances about the effect of works on them. I received an email from Willie Gallagher dated 20 October 2008, with his response to a complaint from a representative of Leith Traders: (**CEC01196343**). CEC and TIE were not effective at keeping the public and businesses informed. They tried, but for a project of this scale the communications were inadequate. More importantly, if the diversionary routes and arrangements made are inadequate, and there are very substantial delays or even, on occasions, gridlock, it does not matter how good your communications are. The impact of the roadworks and delays was greater than it needed to have been due to ineffective planning, sequencing and timetabling of the works. They were trying to do too much in too many places all at once and it was not properly thought out.

95. The disruption and delays were a major contributor in creating, and reinforcing, the public's antipathy towards the whole project. The tram project, so on. It was probably was the biggest single issue in turning the electorate, and the public in general, against the tram project. Instead of restricting and concentrating their work sites, there was what appeared to the public, to be

random work sites all over the place. TIE and CEC appeared not have the appropriate skills to plan the work sites and diversions, and schedule the works to minimise disruption. When work had to be done for a second time it made the whole project a laughing stock.

96. Throughout all this Lothian Buses were trying to keep a service going. Because of road-works, single line working, traffic lights and queues, a normally 15 minute section of a journey could take 35 minutes. If on a 10 minute headway bus service that used to take 60 minutes end to end you have to put in 20 minutes extra running time each way, that is an extra 40 minutes running time, meaning that you need four extra buses and circa eight extra drivers to maintain the service. LB had approx 30 extra buses slotted in just to try and maintain services, and even then that was not always enough effective. The cost of running 30 extra buses and the appropriate number of additional drivers was a major, unbudgeted cost. LB put in a lot of work and money to try and keep a reasonable service going, When it was raised with TIE was pushed to one side. TIE did what they wanted to do and everyone else had to make the best of it. That attitude blew up in everybody's face, especially theirs.

97. I remember going to meetings regarding the work to be done at the foot of The Mound. The cost of prolonging the road works so there was less disruption but over a longer period, exceeded, in TIE's mind, the extra costs to LB and negative publicity flowing from the resultant more severe congestion.

98. The situation from TIE's perspective was, we will do the works when and how we want. We are not interested in doing them differently to suit LB. We are only responsible for our costs. The extra costs LB incur are their problem. TIE had no incentive or obligation to consider the total costs of a certain activity, just their own costs.

99. The tram project had never been popular, and now it was plumbing new depths of unpopularity. People were losing faith in public transport. It was soul destroying for the LB staff and for the bus drivers who were having to deal

with irate passengers, and could see they were carrying fewer passengers. It was down to inadequate preparation, not enough people with the right skills trying to do too much at one time, and having too many different work sites running in parallel at the same time. A bus would get delayed coming up Leith Walk and then would have to go on the diversionary route avoiding Princes Street, and would then get delayed again at Haymarket.

Concessionary travel scheme

100. The Scottish Concessionary Travel Scheme applies to everybody over the age of 60, and to some people who have physical or mental disability. Holders of an entitlement card receive free travel on all buses in Scotland, the operators record the free travel given, and bill TS who reimburse them for the fares foregone less a certain percentage. I cannot remember the exact figures from the Business Plan, but concessionary travellers were expected to account for circa 25% of all passengers. It's a long established scheme, and the only thing that changes over time is the eligibility criteria, the percentage reimbursement, and who administers the scheme.

101. We were looking at a situation where circa 25% of tram customers were likely to be concessionary travellers and therefore revenue from them was dependent on the tram being included in the bus concessionary travel scheme. In the rest of Scotland, the only non-bus validity at that time was on the Renfrew Ferry and some of the Orkney inter-island Ferries, which were reimbursed separately by Strathclyde PTE and Orkney Island Council, not by TS. The cards were not valid on the Glasgow Underground or any Scotrail services. The view from CEC/TIE was always that the bus concessionary travel scheme would be valid on the tram. I repeatedly raised this issue, as I knew it would require a change in the law, by Statutory Instrument, or some Parliamentary action to include tram in the bus scheme. That in itself was not a huge issue if there was willingness on the part of the Government to admit the tram to the scheme, but there was no such willingness. Quite the reverse. Extending it to include Edinburgh trams could mean equalities legislation being invoked to require it to be extended to include the Glasgow subway,

and by domino effect all Scotrail trains, Island Ferries etc. I was well aware that previous attempts to have its validity extended beyond bus had been robustly refused by the government of the day. I was very concerned about this. With a business case where 20% of the revenue was highly dubious I was worried.

102. I raised this point regularly and I had spoken to various transport ministers about it. Latterly I raised it with Stewart Stevenson, and earlier with Tavish Scott and Nicol Stephen. Their response was always the same, that it would be considered in due course, but there was never ever a firm commitment to include it. That followed through from one Minister of Transport to another. I kept highlighting this but was told that I was a 'Jonah', seeing dragons where there were none. Of course the tram will be included. Ultimately tram was not allowed into the scheme and Edinburgh Council had to pay for its inclusion because it would have been wholly politically unacceptable for pensioners not to be able to use their passes on the tram. It was referred to somewhere in the risk register, but only because I pretty much insisted on it.

103. This was no minor matter, 20% of the tram revenue was at risk, this was a really major issue, but it was brushed under the carpet. Bill Reeve of TS was culpable of misleading TIE and CEC on this matter, as in response to my repeatedly raising my concerns he always responded by stating that we should include concession travel revenue in the business case revenues as the tram would be admitted to the scheme. People believed Bill rather than me as he was a senior officer of TS, and they assumed that his knowledge of ministerial intentions was more accurate than mine. Why Bill took this line may be related to what is mentioned at 317. The tram was not admitted to the scheme, and CEC have to fund that element of the revenue themselves. (approx. £450k/£500k .p.a.)

104. A clear case of Renilson coming up with another inconvenient truth, CEC and TIE putting their fingers in their ears and chanting "we don't want to hear you"

Bus/Tram Integration

Lothian Buses

105. When I started in 1998 as Chief Executive of Lothian Buses they held about an 85% market share in Edinburgh. The other 15% was operated by First Bus. Lothian Buses was seen by CEC as a useful source of income as dividends of millions of pounds were paid annually to CEC. It was also seen as providing a better bus service than those provided in other many other cities. CEC viewed Lothian Buses as providing high frequencies, good quality vehicles and a reliable service. Lothian Buses were awarded various industry awards for being one of the best public transport operators in the UK. Politically, Lothian Buses was very dear-to-the-hearts of the ruling Labour Councillors. Labour had been running the Council at the time of the implementation of the 1986 Transport Act, and had fought long and hard to retain Lothian Buses in public ownership. That was very much against the wishes of Malcolm Rifkind, the then Secretary of State for Scotland. The company survived the government attempts to make CEC privatise it. Lothian Buses was not just a bus company; it was the whole transport system. There were no trams or light rail, heavy rail services were pretty much irrelevant for trips within the city as there were no suburban railway lines, and there was no underground. Public transport in Edinburgh was the bus.

106. Although Lothian Buses had not been privatised, it had been subject to deregulation. This created an open market, which replaced the former closed market where, if you had the licence to operate a route, no other operator could start to run on that route. Under the 1986 act CEC's Transport Department had to be set up as an arms-length company, out with the direct control of CEC. In the process of converting Lothian Buses from a council department to a PLC company all senior posts at the new company were advertised. The posts, by and large, were filled by people from the former Transport Department of CEC. The then Chief Executive of Lothian Buses and the senior staff who had been appointed were particularly tactless about the way they handled the situation. A large number of CEC staff, mostly from

the transport department had applied for posts at the bus company. The people who got the roles at Lothian Buses were seen by the people who remained at CEC as having won a prize. There was the implication that those left at CEC were inferior and that the best people had gone to the bus company. That caused a lot of animosity between CEC and LB staff. Some LB managers openly said the best people had gone to LB. While there was an element of truth to this, it certainly was not a wise thing to do. The situation was further compounded by the fact that the people who moved to the bus company had their pay and conditions improved, and the senior staff got company cars. There was a fair bit of ill will from 1986 onwards towards the bus company, the Council officers who felt they had been passed over felt let down and resentful. By the time I joined Lothian Buses a lot of the people involved had left both the bus company and CEC, but by no means all of them. It was also noticeable that attitudes had flowed on to the next generation. A perception of us-and-them still existed between CEC and Lothian Buses

107. The staff's bad feeling between CEC and Lothian Buses was not as strong as that between CEC and TIE. In the case of Lothian Buses, it had had 18 years to settle down.

Strategy

108. It was intended from the very genesis of the tram project, that the tram network was going to run top of the existing bus network. The Business projections assumed that about 80% of the tram patronage would be transferred from buses. That was unsurprising as the tram was not offering travel opportunities that were new and it was not offering anything dramatically faster than the bus. An example of this is the running time from the Airport to the City Centre. The 100 Airlink bus is in fact two minutes quicker than the tram, although would be a bit slower at peak times with traffic congestion.

109. The initial proposals were that the tram and bus would run in competition with each other. The plan to have competition between the buses and the trams did not come from Lothian Buses or from the Councillors, it came from CEC officers. The CERT experience was fresh in their minds, and the animosity from some CEC officers towards LB already described were to my mind responsible. This seemed a ludicrous proposal to me, the opportunity to create an improved total network by integrating tram and bus to run an integrated network of services was being missed in order to try and settle some personal old scores.

110. I was not prepared to allow this to happen, and I would do everything I could to stop it. The Chairman and I embarked on an extensive programme of lobbying councillors and MEPs to explain what was being proposed, and the missed opportunity it represented. It quickly became clear the councillors had been kept in the dark about the matter The politicians saw that it did not make sense to have a competitive scenario between 2 council owned businesses., and action was taken to have the policy changed to one of having the tram fit into an integrated transport network. I recollect that Mark Lazarowicz was the Convenor of Transport at the time and he was very supportive of a policy of integration.

111. The arguments we had had with TIE and CEC officers, and the successful lobbying we had done, angered those who wanted a competitive situation and had lost their case. I was now even more in their firing line, the target on my back had just got a whole lot bigger.

112. You ask me to comment on the draft report to the TIE Board which makes the recommendation at page 3 that *"No proposal or contractual arrangement is inserted into the DPOF Agreement designed to allow compensation for LB for revenue lost to the Edinburgh Tram Network."* This shows this report came at a time before the decision was taken to integrate the bus and the tram network. At this time Transdev were yet to be appointed, and the decision that bus and tram would work together not yet taken. We were still working on the

basis that we were going to have the bus company competing with the tram company. I note that the report goes on to state at page 3 *"In order to safeguard the DPOFA procurement process and to discharge tie's duties under procurement law, a formal agreement on LB's support and participation in the procurement and delivery of Edinburgh Tram Network is critical."* That is stating the obvious. In a competitive situation both operators would suffer revenue losses and cost increases, and the chance of tram achieving financial viability made remote in the extreme.

113. Once the principle had been agreed the topic of integrating the bus and tram systems in Edinburgh was not controversial. The potential for conflict had been removed before the creation of TEL. Bus and tram integration with bus and tram working together and building on the strengths of each was absolutely core to the success of the project.

TIE-Lothian Buses positions

114. I have been shown Andrew Fitchie's email with a note to Graeme Bissett dated 2 March 2004: (**CEC01874859), (CEC01874860**). The note shows the level of TIE's lack of understanding and knowledge. LB was the one arguing that both systems had to be integrated. The Edinburgh bus network has routes which are both profitable and unprofitable. The unprofitable routes, parts of routes and times of day, are cross-subsidised from the profitable parts, thus providing a comprehensive public transport offering. The key issue here was that LB were proposing an alternative to competition by placing tram and bus as complementary partners in an integrated network. Looking at this document now 14 years on, it evidences the continuing dislike, in certain quarters of CEC, of LB. I believe that a lot of the comments in this document have come from CEC. I would dispute the comment on page 2 that LB had *"neither the competence or capacity to run trams."* What an absurd thing for Fitchie to say - if Lothian Buses have the "*competence & capacity"* to run 650 buses and employ over 2000 staff they can clearly run 12 trams and employ 30 drivers. It also shows that despite what he presented himself as, in reality Fitchie had absolutely no knowledge of modern UK tram systems, as at that time the Sheffield , Birmingham (Midland Metro) and Croydon trams were operated by their local bus company, and the local bus company in Nottingham was greatly involved in running the trams there as a partner in the joint venture that ran them. I had not seen this document before you showed it to me, but the hugely negative tone of it proves the wisdom of TEL's view that he was no friend of ours, a charlatan, and was biased against us. In the final bullet point he says ***" From the outset the procurement has been carried out without LB's involvement ".*** Proof positive that long before TEL was established the hugely flawed procurement model of separate design, utilities and infrastructure contracts, which was directly responsible for so many of the problems that blighted the scheme, and ultimately led to its failure, was already decided upon and fully embedded in the project. The seeds of its own destruction had been sown at the time of its birth.

115. At page 8 of the draft report it states *"The evidence indicates a significant risk that Lothian Bus plc management's reaction to the Edinburgh Tram Network procurement may represent a difficulty. It is extremely important that tie is able to demonstrate to the market clear ability to manage an efficient, predictable and open process. tie's objective to achieve bus-tram integration requires commitment from LB to treat the introduction of the Edinburgh Tram Network as an opportunity, not as a repeat of CERT. Control of LB's operations strategy would require a change in current LB Board practice and therefore a direct arrangement between tie and LB is appropriate..."* This shows the change that had taken place, and an integrated rather than competitive network was seen as the way ahead. The lesson of CERT had been learned.

Interests

116. Once the decision had been made that LB and the Tram would cooperate, there was no reason for there to be any conflict of interest between LB, TEL and the TPB. LB buses were selling 115 million passenger journeys a year and the Tram, even on the most optimistic of estimates, would be selling 5 million. If the whole of route 1a had been constructed, projected passenger levels would still have represented less than 5% of the total TEL passenger journeys.

117. If the tram was designed in such a way that it fulfilled a useful transport function, offered new journey opportunities, an improved service to the public, and operated financially viably, then great, it would be a worthwhile addition to the cities public transport offering. If the tram was being built for political reasons and routed to areas where there was no transport demand justification, then it would be an ongoing liability. The aim was to move people around the city in as cost-effective and as efficient manner as we could, whilst achieving the financial returns required. The tram had the potential to be a valuable addition to the offering.

118. TEL removed any potential for conflict. It made no difference whether we were opening a railway line, building a tramway or putting in a magnetic levitation transport system. TEL's job was to move people around the city, provide the level of service that the public were happy with and, at the same time, make the necessary financial returns to the shareholders. To achieve this different modes would be used to meet different needs as appropriate.

Service coordination

119. The tram was not offering a dramatically more frequent service in any area, and the potential for generating traffic was modest because the parallel bus services were pretty frequent and the tram was not significantly faster. It was however expected that some people who would not use a bus would use a tram, as they were perceived as smarter, more modern and more attractive. This had been the experience in some other cities that had introduced trams in the recent past.

120. At that time, there was still the expectation that the tram would go down to Leith. From Leith Walk to Princes Street there were 40 buses per hour, a bus every ninety seconds. Therefore, putting a tram every five minutes down to Leith is not a significant increase in service. Similarly, the Airlink service to the airport was a double-decker every seven-and-a-half minutes and was rated highly. The business plan assumption was that there would not be a huge generation of new trips, perhaps about 10%. There would be some transfer from car but that was projected as a single figure percentage. 80% of tram passengers were predicted to transfer from bus use. The plan was that Lothian Buses would make corresponding reductions in the bus services that paralled the tram, so that the total resources going into the routes and the cost of operating them would remain broadly the same. The net effect on Transport Edinburgh Ltd should be neutral: bus and tram should balance out, and total expenditure should remain the same. There was no inherent conflict as long as it was fully integrated. Plans were drawn up for where the balancing bus reductions would be made, which was very easy on the Leith

Walk side because the tram paralleled the bus. It was less easy on the west side because the tram does not follow the bus routes. However, it was still possible for LB to make reductions that would make a near equivalent saving.

121. You have asked me to comment on Ian Barlex's report dated 12 May 2006 entitled *'Edinburgh Tram Scheme – Service and Integration Issues':* (**TIE00090762)**, (**TIE00090765**), produced on behalf of the Scottish Executive. Ian Barlex was an independent consultant who was well thought of in the transport industry. I note that the report mentions that Ian Barlex attended meetings with Bill Campbell and myself. Norman Strachan was also present at a number of those meetings. Norman Strachan was the Company Secretary for TEL and Finance Director of LB. Bill Campbell was the Operations Director for TEL and LB. Bill Campbell was greatly involved in designing the post tram network whereby bus routes would be recast to achieve the savings required to counterbalance the introduction of tram. Both were directors of TEL. Neither attended TIE Board meetings except for specific issues within their purview.

122. Andy Wood is mentioned in Ian Barlex's report. He was Transdev's initial team leader following their appointment. Andy had considerable relevant tram experience at both Nottingham and Sheffield. He backed TEL up on the issue of there being a "conductor" on all trams at all times. I note that at page 1 it states, *"tie indicated their concern at the potential for buses to compete with the tram service if they are not pruned back in key corridors."* By this point in time, mid 2006 the principle of TEL, and the agreement of tram and bus working together with no commercial competition was long established. I do not know who the TIE person was who made this statement but it is clearly wrong. A fair bit of this document concerns the views of Andy Wood. Andy was a tram enthusiast, the common phrase is "anorak", and his personal enthusiasm sometimes appeared to influence his professional judgement.

123. I note the discussion about the Airlink bus service on page 2. It may superficially appear there is potential for competition between the tram and

the Airlink bus, but the tram route is nowhere near the Airlink route between Haymarket and the airport. Thus the only overlap is on the City Centre /Airport traffic itself. There is no overlap for any intermediate traffic, e.g. airport to Corstorphine. Large numbers of Airport staff live in places like Clermiston and Broomhouse, so the tram is of no use to them, nor to passengers travelling to / from the Holiday Inn or any of the phalanx of private hotels and guesthouses between the Maybury and Donaldsons. This discussion shows Andy Wood letting his tram enthusiasm cloud his business sense.

124. The document shows Ian Barlex taking a step back from Andy Wood's comments and discussing the scaling back of the LB services in a more rational manner. This document debunks the suggestion that LB were making inappropriate suggestions as to the curtailment of certain bus routes. I agreed with Ian Barlex's findings. It was useful to have a completely independent person undertaking a thorough review.

TEL

Creation

125. TEL did not get going until 2004 or 2005. Before that point, LB provided the input in terms of routing and the commercial side of things. Once TEL was established, I became Chief Executive of it and its subsidiary companies.

126. When TEL started it did so in a small way. It was registered at Companies House. TEL's main raison d'etre was to enable CEC's shares in LB and its shares in Edinburgh Trams to be vested in the same company, TEL, and thereby circumvent competition law. Competition law prohibited companies from colluding to fix prices or agree levels of service. However if both companies were subsidiaries of the same holding company they were exempt from its provisions. The establishment of TEL would allow fares between bus and tram to be the same, and an integrated service network to be implemented. TEL took on these coordinating roles, and become more than

just a shareholding umbrella company. TEL had no employees by the time I left in 2008. It had no budget and no funds. It was staffed by people seconded from other organisations that worked for TEL full time or part-time, but were paid by CEC, TIE or LB. It worked well as TEL could draw in the staff it needed , and return them once their task was completed.

127. TEL shared TIE's offices at Haymarket Yards, initially in Verity House and then in City Point. TEL did not have a budget; the other organisations providing staff picked up its operational costs. Some of TEL's work was conducted outside TIE's offices. We would hold meetings wherever was convenient for the people attending.

128. LB was not wholly owned by CEC – about 10% of the total ownership was comprised of shares owned by East Lothian Council, West Lothian Council and Midlothian Council. As mentioned earlier LB could not collude with Edinburgh Trams as long as their shareholdings were different.TEL became the overarching body that would set fares policy to be followed by the two companies, determine network, frequencies, and all operational and commercial aspects of both Tram and Bus. Legally however there was no need for TEL to do anything other than be a shell holding company. Most TEL staff held multiple roles, for example the Operations Director of LB was also the Operations Director of TEL. The Directors of TEL, with the exception of the non-executives, were all already involved at Director Level within other constituents of Edinburgh's Transport.

My role in TEL

129. I did not have a service contract and nothing was formally drawn up as to what my role would be. We got to the point in about 2005 where I was spending the majority of my time on trams – three to four days a week – and it was starting to have a negative impact on LB. In 2006, LB recruited a general manager to take over a large chunk of my LB duties. This was to allow me to spend the time I needed to spend on the tram without LB becoming rudderless. I moved to more of an oversight role at LB rather than being as involved in the day to day as I had been. I considered my duty and

responsibility to be that the money being spent on tram deliver the best possible addition to the Edinburgh Public Transport Network once it was up and running. To do this I had to ensure that what was built was specified appropriately, both from an operational and a passengers point of view.

130. I was appointed Senior Responsible Officer ("SRO"), although not for the construction phase of the project. I was not responsible for building the tramway, the civil engineering, design, construction and contract side of things. The term SRO applied to the my forthcoming responsibilities once the tram moved into its operational phase. The role of SRO, was to be responsible for the whole of the transport operation both now and in the future.

131. I primarily fulfilled my duties and responsibilities through active involvement in all aspects of the project, and participation in meetings, Board meetings and many of the various sub-committees that emerged and disappeared over the years.

132. I divided my time between LB and TEL. How much time I spent with either organisation varied from week to week and month to month depending on priorities. When something big was happening on tram I might be working full time on that. My usual routine was that I would go into the bus office about seven o'clock in the morning and work there for a couple of hours. I would then head across to the tram offices around about nine o'clock and spend the rest of the day there working on the project. Occasionally I would pop into the bus offices at the end of the day if there was something urgent outstanding. I would approximate that, when I was one hundred percent on tram during office hours, I was still probably spending two hours daily on buses. Sometimes I would virtually be full time at the tram for two or three weeks. Other times, when there was very little happening, I would be spending the majority of my time at LB

TEL's role

133. During 2007 and early 2008, the main role of TEL was to review and control the specification of what was proposed to be built, to ensure that, from an operational point of view what would be built, was what was required to run an effective and efficient tram system as part of an integrated transport network for Edinburgh. This had not fundamentally changed from the role it had since its creation, but as contracts were prepared for tender, and previous designs were brought together for inclusion it was essential every design was reviewed again and signed off. The governance was still TIE build it and TEL operate it. TEL's job was, at this stage, to ensure that what was built was operable and the best possible from an operational point of view, consistent with the funding available

134. The only oversight TEL exercised over the TPB prior to May 2008 was in as much as some TEL directors, and staff sat on the TPB.

135. TEL had no involvement or responsibility for the actual construction of the tramway,that was TIE's responsibility. TEL's role was to define the vehicles, passenger facilities, operations, and commercial elements of the scheme. Timetables, marketing, the inter-availability of ticketing, and to ensure that the tram was fully integrated with the bus. The contracts for digging dirt, pouring concrete, shifting the utilities, laying the rails and putting in the overhead power, was all very much down to TIE..

136. Most of the changes within the Change Control Process, for example as detailed on page 16 of the Executive Summary, (**TRS00002656**), would have been for civil, mechanical or electrical engineering issues. I would be surprised if TEL's changes were more than a single figure percentage of the total. TEL did however critique them, and actually initiated a few.

137. My team was responsible for specifying the tram vehicles, when and where the tram was going to operate, the route it was going to operate and the fares it was going to charge, etc. In the early stages of planning the tramway we attended many meetings at the City Chambers to discuss the route, etc. We

were very much involved in that side of the planning, with the objective that the end product would be something that would serve the maximum number of people and be as attractive as possible.

138. At page 7 of the draft report to the TIE Board on DPOFA Procurement prepared by Andrew Fitchie in August 2003, there is a statement that *"TIE's objective to achieve bus-tram integration requires commitment from LB to treat the introduction of the Edinburgh Tram Network as an opportunity, not as a repeat of CERT.":* (**CEC01883094**). TEL was created to remove the competition issue, so once that competition issue had been removed there were no longer any concerns from LB's perspective.

Resourcing

139. As an organisation there were concerns in relation to TEL. There would be occasions when TEL would propose one action, TIE would propose another and there was disagreement. They were not often fundamental, but occasionally a matter would have to be referred to CEC for decision. As regards individual employees, I did not have any significant concerns. As regards individual Board members likewise.

140. As noted on page 37 of the TPB papers for a meeting on 31st October, 2007, it was recommended that the TEL management would "require to be strengthened over the construction period" following the change in the governance structure which was approved in late 2007: (**CEC01357124**). The closer we actually got to Contract Close and the construction period, the more TEL was going to have to do and the more manpower it would need. Most of that was achieved by additional secondment from LB & CEC, and the use of 3rd party consultants. Once the digging up of the roads started, initially with MUDFA, there was a lot that TEL required to do to keep the city moving whilst construction went on

Capability

141. My team and I knew a fair bit that was relevant to the construction of the tram project. Although we had no direct involvement in the civil engineering, we were heavily involved with the traffic engineering people on planning diversion routes, when there were road closures for MUDFA.

142. An example of concerns being raised and ignored, surrounded the cable tunnels and chambers underneath the roads. Edinburgh had a system of cable trams until 1922 when they were replaced by electric trams. With cable trams, the cable runs under the road through a small tunnel. Where the cable changes, there is a huge chamber under the road up to 60 ft square and 10 ft deep We knew that there were chambers at some major junctions on the line of route, at the West End, and Haymarket. They had been used as air raid shelters during World War Two, but then sealed off. I recall attending a

meeting in contractors offices at Leith docks, to plan utilities work at which I think Carillion, BB and TIE were present. I explained there was a cable chamber at a particular junction and how big it was, and was treated as if I were an imbecile who did not know what he was talking about. A year later they discovered the chamber and it caused substantial problems and delays to the works. The contractors alleged they knew nothing about the chambers and tunnels and had not been told about them.

143. The level of discussion, challenge and debate that took place at meetings of the TEL Board depended entirely on what was on the agenda. Some TEL Board meetings would last for hours if there were big, complex or controversial agenda items, although I have also known TEL Board meetings that only lasted 20 minutes when there was just routine items to deal with.

Relationship with TIE

144. TEL were provided with monthly progress reports by TIE, for example an Executive Summary dated 21st July, 2006 (**TRS00002656**). This was to allow the TEL Board to recommend a course of action. They had been provided by the then Project Director, Andie Harper, and had been prepared by Willie Fraser. I would read through them and highlight anything I wanted to query or required further information on, although a lot of the content was to do with actually building the tramway, or covered issues we were already fully aware of. We were particularly interested in public relations and media, and had a fair involvement in that area.. I would assume these reports were also sent to other members of the TEL Board, but I cannot recollect.

145. The Minutes of TPB meeting on 22 November 2005, item 3, noted that Ian Kendall suggested that the TEL Board would "hold the mantle of control and ownership post financial close": (**TRS00002067**). That did not reflect my, or the TEL boards, understanding. The mantle of control and ownership for the construction period post-Financial Close clearly remained fully with TIE. TEL was not in a position to say, for example, that an eight metre culvert was

needed here but only a six metre culvert there. That was clearly a TIE issue. The vast majority of the expenditure was on civil engineering and electrical engineering items over which TIE held the mantle. In reality, the mantle of control and ownership post-Financial Close was held by CEC, but the responsibility for implementing and controlling had been delegated to TIE.

146. I am aware that the Director of Corporate Services at CEC noted in mid-2007 that "*TEL was envisaged as TIE's monitor. However, the fact of not having any money undermines TEL's position":* (**CEC01566497**). I do not think it was ever intended that TEL would employ a team of monitors who would be looking over the shoulder of the TIE people, and I do not believe TEL was envisaged as TIE's monitor. With no, or little, mechanical, electrical or civil engineering experience of projects of this scale, TEL could not monitor that aspect of the project. TEL would be aware of what was going on, and would raise issues they were not happy with that could have an impact on TEL, but that was the only means by which TEL would monitor TIE.

Transdev

Appointment

147. There were four different companies involved in the tendering procedure for the contract. Transdev was the successful bidder. The way in which the contract was set up meant that it would not have made any commercial difference who was appointed. As long as the trams were clean, ran on time and met the standards TEL set, there was no issue over whether it was Stagecoach, First Group, Transdev or another company that held the contract. At that time, LB did not bid for the contract. Under European procurement rules there may well have been problems with a tendering authority awarding a contract to its own in house company. It might have been acceptable, but the advice was it was a grey area, and best avoided. In any event if it had happened it could have been seen as being an inside deal.

Contract

148. A contract was entered between TIE and Transdev in June 2004 (Development Partnering and Operating Franchise Agreement, DPOFA). The TIE Board Meeting papers dated 20 June 2005 consider the involvement of Transdev in the tram project: (**TRS00008522)** pages 12, 65 and 66. I can see from the papers that I attended this particular meeting. By this point in time the competition had been held for who was going to get the contract.

149. I can see from these papers that we were discussing areas such as early operator involvement and whether Transdev should have a seat on the TEL Board. If they were going to be the operator, which was the plan at the time, it would be professionally right and proper that they at least attended TEL's board. I did not have a problem if Transdev were on the TEL Board, as long as we still had the ability to meet in their absence if required.

150. I note that at page 66 it states *"when the project moves into the operations phase Transdev will assume a portion of the short-term fare box and operating cost risks. However, these risks will largely fall to the public sector via CEC. A number of methods by which CEC can mitigate the risk …"* The finalised position was that they would assume virtually full operating cost risks barring major unforeseen circumstances like acts of god. The standard routine operating costs e.g. paying for the electricity and paying the drivers' wages were Transdev's responsibility. Thus their contract payment did not go up if they agreed a ten percent pay increase for their drivers. I cannot recollect why it is stated "*Transdev will assume a portion of the short-term fare box risk"* It was never my understanding that Transdev would have any revenue risk, other than penalties if they failed to adequately address fare evasion.

Tram Frequency.

The experience of the public transport market in Edinburgh was that if a service frequency was every 30 or 20 minutes passengers would check a timetable to decide what bus to go out for. Once the frequency reached every 10 minutes they did not, they just went to the bus stop knowing there would be a bus along in a few minutes. Waiting up to 30 minutes was a major disincentive to travel by public transport, but an average wait of 5 minutes was not.

Our experience was that passenger numbers increased as frequencies were increased up to 10 minutes, but there was little additional gain by running more frequently than 10.
Hence the incentive to run more frequently than every 10 was usually driven by demand, i.e. there were more passengers than could be comfortably carried on a 10 minute frequency.

Tram Size

We decided to buy 40 metre trams rather than 30 metre trams as they are cheaper to buy per passenger space, viz:
If you are seeking to provide, say, capacity for 1,500 passengers per hour you can do so by running either
6 x 250 capacity 40 metre trams =1500
Or
8x 187 capacity 30 metre trams = 1500
The price of a 40 metre tram is not 33% more than for a 30metre tram as with each you still have 2 cabs and control mechanisms, the same number of sets of electrical equipment, etc, so capital cost per passenger space is less with a 40 m that with a 30m.
By way of analogy, a double deck bus does not cost twice what a single deck bus costs.
The most important factor by far however was the running costs for the 30 year life of the project. With 6 trams per hour to run rather than 8 you need 25% less Drivers, 25% less "guards", and maintenance staff requirements are lower too.
The revenue and cost risks lay with TEL. Transdev had no financial incentive in this area, as their contract was effectively cost reimbursement plus profit margin. They would be paid an agreed sum per mile and per hour operated. Hence 8 rather than 6 trams per hour meant more miles and hours, more cost, and therefore more margin.
It was thus entirely logical for Transdev to seek a smaller tram – higher mileage option, and wholly illogical for TEL to agree.
We received bids for trams from all the major European tram suppliers, so the possibility of supplying 40 metre trams did not deter any of the expected bidders from bidding.
The weight per axle for a 40 or 30 metre tram is similar, (the 40 meter tram has more axles), so longer trams required no increased track, foundations or overhead electrical equipment compared to 30 metre trams.

Tram Stops

The longer trams did not cause any problems with location of tram stops, the stops would have been in the same place with 30 or 40 metre trams.

Role

151. Transdev were co-located in TIE's office working initially on a consultancy basis. One of the benefits of having Transdev there was that these were people who had actually run trams. They knew what they were talking about and from that perspective it was immensely helpful. Transdev brought tram expertise into TIE for the first time, with the exception of Ian Kendall. Their involvement was a sensible way of dealing with things and gaining valuable tram experience and expertise. There was never any suggestion that Transdev be on the TIE Board as they were on the Board of TEL.

152. When Transdev were appointed, it had already been decided that tram and bus would work together. Above all else, the key decision was that the revenue risk would remain with Transport Edinburgh. In simple terms Transdev would be paid a certain amount per mile for running the trams, and would have no control over fares, which meant they had no incentive to try and maximise the number of people on the tram. That meant there would not be a competitive situation as Transdev was effectively just the supplier. If Transdev had been allowed to keep all the fares they collected, there would have been conflict between the bus and the tram.

153. It was intended that Transdev would be the operator. During the time I worked on the project Transdev's role did not really change. It was refined, there were detail changes surrounding operating costs and fare box risk etc. Ultimately though, fare box risk was taken away from Transdev, but the entire operating cost risk fell on them, barring things outwith their control, e.g. if the price of electricity went up by more than an agreed percentage. Transdev was responsible for all costs that were within their control.

154. I recall that there was an issue over fare collection. Early on, the plan was that the trams would have conductors who sold tickets. It was intended that there would be a penalty payment obligation on Transdev should their staff fail to collect all fares. The use of conductors was decided upon following the

experience on the Sheffield tram network. Initially Sheffield had ticket machines. However, that approach was abandoned in preference of conductors because many people were not buying tickets and were riding for nothing. Added to that, the on platform ticket machines were being vandalised, and stolen from, hence Transdev were very keen that we run with conductors. We were very happy with that idea. We were aware of similar problems on the Tyne and Wear Metro system, and Dublin trams where, significant fare avoidance took place, and unruly behaviour where the only staff on a tram was the driver locked away in his cab, leaving the passengers with no protective staff presence in the event of drunken or rowdy behaviour. This had led to Tyne & Wear metro running virtually empty in the evenings as customers were frightened to travel. For those reasons it was agreed that there would be conductors. This policy was later modified to having a customer care employee on every tram at all times, as there were fears based on what was happening in Nottingham of tram conductors being assaulted and robbed of their takings.

Procurement Strategy

My role

155. I was not heavily involved in the determination of TIE's procurement strategy but I thought it was seriously flawed. I did not agree with TIE failing to choose a turn-key contract strategy that was tried and tested, nor why they wanted to split the risk for build and design between different contractors. This just seemed to be opening the door for inter contractor disputes and issues "falling through the cracks". My preferred procurement strategy would have been to appoint one contractor to design, construct and commission the entire tramway. They in turn would appoint subcontractors, but our, the client's point of contact would always be with one company who would be responsible for delivery of the whole completed tramway. I had used this strategy in the past at Stagecoach and LB and it had always worked well. It also made the clients job much simpler as they only had one contractor to deal with.

156. TIE signed up to the utilities diversions and were paying out significant sums for utilities diversions long before contract close. A lot of the utilities works that were done were not done properly, and had to be done again. It was argued that it was enabling work that was being carried out, which would speed up deliver of the finished scheme if the other contractors could move onto a worksite where all the utilities had already been relocated. However as the MUDFA works were being undertaken independently and in advance of the main contracts it meant the MUDFA contractors did not know what the main contractors would require, hence some utilities that did not need to be moved were moved, and others that needed moved were not. What was said "behind closed doors" as the reason for commencing utilities work so soon was that the more money that was spent now, the less likely it was that the project would be cancelled.

157. I caveat this opinion insofar as I did not have a great deal of experience working on infrastructure projects of this scale. I had experience of working on infrastructure projects where a design-and-build turn-key contract was used. Those projects primarily involved buildings, bus stations and depots for example. When I was Chairman of Stagecoach's African operations we did turn-key work in Kenya with British contractors.

158. The part of the procurement strategy that I was directly responsible for was the procurement of the tram vehicles. The trams that were bought in were the trams that I had evaluated and had gone through the tender procedure to purchase. I had extensive experience over the years in purchasing vehicles. LB certainly had the skill and expertise to order and buy trams. The trams that are now running are ninety-nine percent as I had specified. The contracts for the procurement of the tram vehicles were let in the middle 2008 and I was left at the end of 2008. There was very little change made to the vehicles, after I left, and those that were made were superficial. We reviewed trams in Dublin, Frankfurt., France and Spain. We went through a comprehensive and detailed procurement process. CAF were very keen to get the business. The other manufacturers, Bombardier, Siemens, Alstrom, already had big tram businesses and had sold many trams in mainland Europe and overseas.

159. CAF had been a heavy rail builder for a century but they were relatively recently into light rail vehicles, and primarily within the Spanish speaking world. They had supplied trains to Northern Ireland railways, and had built the Heathrow Express trains, so had some UK market experience and exposure but in heavy rail. CAF were by far the most motivated as they were keen to break into the UK tram market, and saw Edinburgh as their "entry ticket " to it. As a result we got the best price and the best deal from them. I was very impressed with them, and I am pleased to note that the most trouble free part of the tram procurement was the tram vehicles, and they came in on time and on budget.

160. I wish to make it clear that the one part of the tram order I was not responsible for was the number purchased. I chose the trams, TIE decided how many to buy. The decision to purchase trams for sections of route that had no funding available for their construction (Line 1b) was TIE's

Fixed price

161. Tramco was a fixed price contract. It makes sense to have a fixed price contract when you are ordering a set number of vehicles built to a pre agreed exact specification. The contract was fairly straightforward and was very similar to what we did with buses, but with the maintenance and spare parts obligations included.

162. There was, however, one very important thing that TIE's finance people chose not to do. We were buying from Spain, and the trams were priced in Euros. TIE did not take out a hedge on the euro price to fix the price in sterling. *Taking out a currency hedge costs money, and the exchange rate may move in our favour so we'll let it run*. I understand that by the time payment was due, the pound had moved negatively against the Euro, and that resulted in the tram vehicles actually costing TIE more than was budgeted.

163. Hardly the actions of a business seeking to minimise risk.

164. With regards to the Infraco contract, I was not closely involved in its composition or negotiation. It was my understanding that achieving a fixed price for the infrastructure contract was the aim. The stated objective was a fixed price contract where only post signature extras or variation from what was contracted would result in a price increase (barring force majeure).

165. My view was that if the private sector were going to build it then they should design it and come up with the design options. A design and build contract. If subsequent to contract close the client changes the design then the risk is passed back to the client because they are responsible for the changes. It is not complicated: you minimise the number of fingers in the pie, and through doing that you have a firmer line of accountability if things go wrong.

166. I recall that I was in attendance at a meeting involving senior people about a build element of the Infraco contract, although I was only listening in. I cannot recall the detail of the meeting or the attendees, but I clearly remember it being categorically stated the contractors had built far too high a risk premium into the price for a particular risk. I recall that there was agreement that TIE/CEC should just take the risk themselves because, in their words, it was not really a risk, because it was not going to happen. This was by no means the only time I was aware of TIE, sometimes in agreement with CEC, taking the risk themselves because they thought the issue was straightforward and nothing could go wrong.

167. One of the most outstanding incidents was when the CE of TIE announced to the politicians and media that a utilities diversion contract had been concluded on a Fixed Price basis. In fact it was nothing of the sort. The only thing that was fixed was the rate per hour. The number of hours that would be taken to undertake the works was completely open ended. I was not sure if he did not understand the meaning of “Fixed Price Contract” through ignorance, or if he was lying because he thought it sounded good. Personally I suspected the

former. If that was the calibre of knowledge TIE's CE little wonder what happened did.

Contract

168. All the tenders were submitted on the same day. The tenders were valid for 90 ? days. The contract had to be signed and closed before that period expired because at the end of that period the tendered prices ceased to be valid, and a retendering exercise would have to be gone through and prices would most likely rise. Those who understand what was going on, including Andrew Fitchie, realised that if TIE did not sign the contractor up before the period expired they were not going to get the same prices again so there was an almighty rush to get the contracts signed. I spent the best part of a week in in DLA's Rutland Square offices, in and out of meetings. The whole process was rushed, and as the design work was incomplete there were many areas of uncertainty. The contractors were well aware that TIE knew if they did not get the contract signed in time new bids would be required. Those new bids would be considerably more expensive. Hence the contractors lawyers were in a very strong position in the last few days and hours. They had little reason to give ground, particularly in the area of incomplete design and risk transfer, as TIE had put themselves under pressure to sign. And they did.

169. By the end of the week in Rutland Square the attitude of the TIE team appeared to be : just sign up, any problems won't emerge for some time, and can be dealt with when they do. Contract close was seen as just another hurdle to get over, once the contracts are signed there's virtually no chance the project will be cancelled. (though some years previously the council had signed all the contracts for construction of the West Relief Road , and an incoming administration of a different party did cancel the contracts, and pay chunky penalties for so doing)

Responsibility

170. In my opinion, it was the Chief Executive of TIE who had overall control over and oversight of the implementation of the procurement strategy. It was his responsibility.

171. I did not raise any concerns in relation to the implementation of the procurement strategy for infraco, which is referred to in the report and papers for the August 2006 TPB meeting on pages 43 to 48: (**CEC01688881**). I did in relation to Tramco, as that was the part I was in charge of. With Tramco I was left with a fairly free rein to get on and do it, which I did. However, because I sat in on some meetings where problems with design issues were the major topic I inevitably became aware of them, albeit they were out with the remit of my work.

SDS / Design

Design

172. I was involved in the design process but at a more strategic level, generally not in the detail. I dealt with reviewing traffic flows, ensuring we minimised the delays to other traffic from the introduction of the tram. I looked at the total transport network for the city so that we did not end up with increased congestion because the design did not allow other traffic to move freely. It was all about getting the optimal design for the total TEL network, and planning the streetscape to handle it.

173. There were difficulties between TIE and TEL in outlining the preliminary design requirements for Parsons Brinkerhoff ("PB"). I refer to these in an email to Ian Kendall and others on 6 April 2006 (**CEC01878838**), which relates to an email sent to the same group by Bill Campbell (**CEC01878067**). I was very frustrated with the direction being taken by TIE. I was very clear that the tram design could not be taken in isolation irrespective of the impact on the rest of the TEL network. If by doing certain things tram run time is reduced by one minute, but the impact of those things is to slow down general traffic,

including buses, by five minutes, then overall the effect on the whole transport network is negative. However, if the tram is considered in isolation the priority would be to get that one-minute saving. TIE's sole focus was to minimise tram run-time, and all other considerations were secondary.

174. This was not an acceptable way forward for TEL or indeed, I am sure, for CEC. The logic seemed to be that the faster the tram was, and the slower other traffic was, the more attractive tram would be to passengers compared to travel on the bus. It was completely the wrong approach. In an integrated network tram run time is only relevant insofar as longer run times require more trams and more drivers and therefore tram costs increase. The lower the tram run times the more attractive the tram is to car users and therefore more extra revenue. The correct approach would have been to instruct SDS to develop a design which minimised tram run time to a level consistent with maintaining existing bus operating speeds. In other words, to design for zero impact on the buses; not to design for minimum tram run time and go forward from that. If that is the starting point, an iterative process can be used to improve tram run time without incurring disproportionate extra costs on the rest of the TEL network. These were the fundamental issues I believe had to be addressed in designing the SDS work, hence my forwarding the email. I wanted the best deal for Transport Edinburgh for tram and bus combined.

Architecture

175. The one design issue that I was party to resulted from the involvement of CEC planning department who had to approve all tram structures. Effectively grant planning permission. Ricardo Martini was CEC's design aesthetics officer, and reported to Sir Terry Farrell. Farrell was the City's architectural design Tsar. I remember particularly the curved bridge beyond Edinburgh Park Station, which carries the tram over the Edinburgh / Glasgow railway line. The designers proposed an elevated concrete structure similar to the Tyneside Metro Bridge at Byker. It had been designed to be functional. Martini demanded the bridge be redesigned to be more expressive and welcoming to visitors to the city and to propound Edinburgh's spirit of

enterprise ! This of course delayed things, increased design costs, and it was nonsense to suggest the bridge would welcome visitors to Edinburgh. It would not be visible to any rail or tram passengers. The architecture in that area was in any event no paragon of aesthetics.

176. Another area where Martini's involvement created unnecessary work, increased design costs, delayed progress, and in this instance resulted in an inferior end product was the trams stops. Passenger shelters for the tram stops had been designed that looked smart and modern, provided good protection from the weather and rain, and were of sufficient size to accommodate expected passenger numbers. Ricardo rejected these out of hand. I'll spare you the flowery language, but suffice it to say the redesigned shelters he approved provide minimal weather protection, are too small and not fit for purpose. But they are expressive.

177. TEL found CEC's constant tinkering with the design of the tram stops frustrating. There was a balance to be struck between aesthetics and function, but function ended up being almost totally ignored. My objective was always that I wanted the best a passenger travel experience the project could provide. Regrettably there were many others people who were not concerned with the end travel experience as their responsibilities ended when the tram became operational. TEL was concerned being the organisation that was left with the operational issues.

178. There were also issues surrounding the design of Murrayfield tram stop. David Mackay, who was on both the boards of TEL and SRU, had apparently promised the SRU a tram stop to be proud of. A lot of time was wasted on re-designing a grandiose Murrayfield tram stop. It might be necessary to make the steps and the platforms wider because of the numbers of passenger before and after games, but that did not mean that the materials had to be up specced or more expensive. I think, ultimately, it was built to the original plan because the money had gone by then.

Delays

Delays to the design programme was frequently discussed at board and committee level, for example as shown in the Minutes for the DPD (Design, Procurement and Delivery) sub-committee dated 13 September 2006: (**CEC01761655**). TEL would be doing the routine maintenance on the trams, cleaning, light bulbs, wiper blades and so on, and had an interest in the routine engineering servicing. Meetings were not held just to discuss tram stops, the depot, and TEL relevant items. It would be all the current outstanding design issues, so maybe only 30 minutes of a 3 hour meeting was directly relevant.

I was not heavily involved in approvals and consents for the design other than for the relatively few items that were directly relevant to TEL, but as already mentioned in answer to a previous question the approvals process was lengthy, unreasonably so to my mind, and this delayed progress. I was at many meetings where approvals delays was discussed at length and it certainly was a big issue for TIE. It seemed to have a compounding effect, in that we cannot get on and design this until we have approval for that, because this sits on top of that.

179. There was considerable concern in late 2007 about the level of design which had been competed as TIE moved towards contract close. We appeared to be heading towards contract close with an awful lot of loose ends and unfinished design business, and would be signing contract completion on the basis of substantially incomplete design. There was some discussion about delaying the tendering till the design work was more complete, but the rush to get out to tender, get prices in and contracts signed overcame the more cautious approach being advocated by some.

180. My understanding of the steps taken to try and address these delays was that TIE and the contractors were constantly badgering CEC over it, but CEC planners moved at one pace only, and nothing could be done to speed things

up. I have no knowledge of there being significant ill will between the planning department staff and TIE staff, but if there was it would explain things.

181. The relationship between the SDS and the Joint Revenue Committee ("JRC") contracts was that one fed off the other. It provided additional certainty within the overall business case. It was often the case that the cheaper option of closing junctions completely was taken over what would have been a better course for keeping the city moving by keeping the junction partially open and spreading the work over a longer period. Again the root problem was TIE were seeking to get the work done at lowest cost. If lowest cost was total closure for 6 weeks with severe congestion then do it. Partial closure for 9 weeks with only modest congestion costs more. TIE were not picking up the costs of the extra congestion and delays. When it came to TROs and TTROs, the matter of diversions causing substantial delays was not given the priority it deserved, until the situation of complete gridlock for about 3 hours occurred one day and the Council Leader went nuts about it. Things improved slightly thereafter. The JRC evolved over time, originally its roots were in the plans before it was agreed that bus and tram would work together, thereafter it became about predicting total network revenues also.

Traffic flow

182. It appears now that the figures with regard to traffic flow that were supplied to Ian Kendall in 2004 were not passed to SDS. Ian Kendall was instructed what the design requirements for Princes Street had to be, but he appears to have ignored them as SDS were given no guidance. This caused delays in moving forward as SDS had to modify their designs. This was either incompetence or malice on the part of Ian Kendall not transmitting the information required to SDS, and in turn SDS not being producing designs that were fit for purpose. Which it was I cannot say.

Transparency

183. I was not at the DPD meeting held on 7 June 2007, the minutes of which note on page 8 that Willie Gallagher *"expressed his displeasure about the lack of progress"* in relation to design: (**CEC01528966**). There is nothing there that surprises me, and it highlights the obfuscation of the true position. *"A programme had been presented with assurances it was achievable"*, when we knew that was not the case. By this time things had progressed from being economical with the truth to the media and councillors , to being economical with each the truth with each other.

184. Another problem with the reporting of issues was that the reporting format did not adequately differentiate between a relatively minor issue and a seriously major issue. Issues would be in the risk register, on perusing the risk register it was not always apparent what was a£1k risk and what was a £1m risk

Responsibility

185. I was not involved with the PB and the SDS contract and I have no locus to hold view on it. Clearly the actions taken were not adequate as the situation did not improve. Clearly more should have been done to mitigate the design problems.

186. Fundamentally, my understanding of the cause of the delay was that it was CEC. However, there were also issues with third party agreements. For example, I recollect there was an issue where the tram runs beside the railway line from Haymarket to Edinburgh Park. It was not possible to get prompt action from Network Rail. They had so many security and health and safety proceedures. Working in proximity to the rail line and the depot at Haymarket was by no means straightforward. That would have been handled by TIE staff, and I remember TIE staff had major frustrations dealing with the residual current problems with Network Rail re signalling. That is seriously specialist and not the kind of stuff that CEC had anybody able to handle.

187. I am unaware of anything more that TEL could have done to achieve a reduction in risk associated with the design it was involved with. We had more than enough on our plate with the direct TEL issues to keep us occupied, and the delay in progressing design and obtaining statutory approvals and consents for items relevant to TEL.

Utilities

188. In October 2006 TIE appointed Alfred McAlpine Infrastructure Services Ltd under the MUDFA contract to carry out the utility diversion works for the tram project. The assurance was that the utility diversion works would be completed before the infrastructure works commenced. Since there would be some areas where you did not want to have to close the road any longer than necessary, or close it more than once,if the utility works were relatively straightforward a decision might be taken to do the two together. That would be very much the exception.

189. I and the Operations director had major involvement in fixing the actual timing and sequencing of the MUDFA works. I was involved in providing input into how the MUDFA works were undertaken – their sequencing, and timing,to try and minimise the impact on general traffic and LB. It had to be done in a measured fashion so that things could continue to operate as normally as possible on the rest of the route whilst certain areas of road were closed off, restricted to contraflow working or whatever. To spread the pain around evenly.

190. The only concern I had about any delay in commencing and carrying out the utility diversion works was that it introduced yet more time slippage into the whole programme. It was not my area of responsibility but I did express my desire, along with everybody else, that whatever had to be done, be done to get things moving and kept moving.

191. Carrying out of the utility diversion work was shambolic from TEL's angle. It was a blame game and it was difficult to get to the bottom of what the real cause of the delays was and I never really did clearly understand it. There were multiple possibilities: (i) that the contractor was not putting in enough resources; (ii) that they had opened too many holes at once and were trying to work on too many work sites at once rather than concentrating on fewer; or (iii) that they kept finding things that they did not expect to find, as the contractor would always claim. At TEL we were more concerned with fire-fighting and trying to keep the city moving, and the things that were happening that were out with our control. It was very much an issue for TIE, they were meant to be managing it and we were not going to tell TIE how to run their utility diversion work. We were trying to do the best we could to provide as good a service as we could under the difficult circumstances. Every party had their excuses as to why things were going wrong.

192. TIE tried to convince everybody – CEC, the councillors, the media, the public, the politicians, anybody– that the utilities contract was a fixed price contract. I think some people in TIE genuinely thought that it was a fixed price contract, because they did not understand what a Fixed Price contract actually was.

The only thing about that contract that was fixed was the rate per hour that the contractor was paid, or the rate per day for equipment and so on. It was only under some fairly detailed questioning that it was admitted the contract was not fixed price. Nonetheless, TIE continued to send out the message that it was. If you say something often enough people will start to believe it..

Cost estimates and funding

My role

193. My main direct involvement was in Tramco for which I had full responsibility. I had involvement in Infraco regarding the TEL relevant items, the depot, the tram halts, the big interchange at the airport that never was built, etc. The prices for digging & shifting earth, pouring concrete, buying steel etc were not my area at all. I just accepted that whoever was doing that had got the right price from the contractor.

194. I attended TIE Board meetings and am aware that a request is recorded in the minutes of TIE Board meeting on 24 October 2005 that the TIE Board is kept informed at every meeting on delays and any additional costs: (**USB00000377**). At item 3 of the Chief Executive's report is a quote, *"There was concern that project delays that were not caused by TIE were resulting in inevitable cost escalation and for major projects these extra costs could be considerable."* At that time the Board papers were issued for the meeting only and we were required to return all the papers at the end of the meeting for shredding. I was told it even went to the point that a different typo error would be put in every copy issued so they could identify who it had been issued to and thereby identify the source of any photocopy leaks.

TEL's role

195. I have no reason to believe from TEL's perspective that costs were not properly reported to the committees and Board, and that sufficient detail was

provided to allow for concerns to be raised if appropriate and for budgeting and risks to be noted. However, we were not qualified to second-guess prices for the major capital elements of the project, certainly on the civil engineering side, utilities, electrical and power supplies. The only thing that we had real skill at was the day-to-day operating costs and tram acquisition costs.

196. TEL had the same involvement with the Final Business Case, version 1 (FBCv1) [(**CEC01649235**) as with the draft. We wrote chunks of it, and reviewed and approved other parts of it.

197. At the meeting of the TPB on 20 November 2006, the TEL Board recognised that the project required, *"careful risk management, particularly to ensure that value for money is achieved and that costs are properly managed":* (**CEC01695695**), (page 51). I am sure that the allowances for risk and Optimism Bias would have been low compared to the amount of risk that was really there. As previously mentioned there was inadequate allowance in the Final Business Case for risk and Optimism Bias.

Oversight

198. It was not my understanding that any one individual, was responsible for monitoring all delays and costs. It seemed to be that delays and cost overruns on items being dealt with by each team were their responsibility. I do not recollect it being formally centralised, though there was a risk officer. Certainly TEL took responsibility for monitoring and reporting on deviances on issues within our purview.

199. I had concerns that the delays in the project were going to impact on cost, as referred to in the Minutes of the TPB on 22 November 2005: (**TRS00002067**). The initial funding offer from the Scottish Executive was £375m, which was a fixed sum, not £375m plus indexation. I was highlighting that we seemed to be running late and was querying what was going on and what the impact would be. I was by no means alone, most had concerns re delays and cost overruns.

200. Ian Kendall stated that the tram project was being developed with an overlapping series of programmes (page 3). We were still proposing line 3, and perhaps that is what the overlapping series of programmes referred to. It may also have related to Design, Utilities and Infrastructure being separate Contracts which overlapped.

£375m estimate

201. When I first became involved in the project the project was just a concept. At that stage, there were no serious capital cost estimates. TIE were claiming the figure of £375m would provide for line 1, line 2 and Newbridge, and that was publicly stated to be achievable. Behind the scenes, however, what was being bandied about internally was that there was no way we would get it all for £375m so TIE would quietly drop bits. There was no formal procedure followed that I was aware of. For example the Newbridge line was just quietly omitted from all future plans. Publicly TIE held on to the £375m figure for 9 months beyond when it was fully accepted internally that £375m was unachievable. By then we knew that even the reduced operation was not going to be done for £375m.

202. The first bit to be dropped with no comment – nobody noticed even in the media – was the airport to Newbridge section. The next thing was to drop was the section from Newhaven along to Granton because that was relatively expensive to build – there complex seawalls that had to be built. I cannot actually remember precisely when the Haymarket to Granton line became an aspiration rather than part of the plan, but it was certainly dropped before the Final Business Case. It was stated that if there was any money left over from 1a then that would go towards 1b.

203. The TIE board minutes do not provide a complete picture of what was being discussed in the meeting: there are two pages of minutes for a two-hour meeting. And at this time the meetings were not just about the tram, there was

also SAK, business development looking for other projects, the Waverley Railway, etc. It is stunningly obvious that the minutes are brief in the extreme. This was to ensure the media, and anti tram lobby received no information that would be useful to them.

£498m estimate

204. Regarding the figure of £498m, I remember very clearly attending a heavy weight meeting in one of the rooms at City Point in 2007. I recall there were no politicians present, but that David Mackay and Willie Gallagher amongst others were there. I recall that the latest cost advice was somewhere well above £500m – £530m/£540m or thereabouts. I recall Willie Gallagher saying words to the effect of *we can't possibly put that out because that sounds like an absolutely huge increase. Let's take it down. Let's make it, say, £480m. That figure doesn't sound nearly so bad, it starts with a four.* Someone said that he could not do that and his response was, *watch me, well, alright, not £480m. What we are saying is we need to have something that starts with four. £499m is too bloody obvious, let's make it £498m.* A discussion ensued. That's where the £498m came from. This was not Gallacher acting alone, most of those present either agreed, or acquiesced.

205. It was always about getting past the next political hurdle.

206. It is possible that these sort of discussions were sometimes held with people from CEC City Development and/or Finance present. People of the level of Barry Cross, Keith Rimmer, Andrew Holmes od Donald McGougan. I suspect that they would not report back everything that had gone on. Keith Rimmer was CEC's Head of Transport, but as long as the tram project was delivered he would quite happily buy into and do whatever TIE needed to do. Barry Cross was a tram enthusiast and he was highly motivated for those personal reasons to see the tram built. I do not recollect Tom Aitchison ever attending meetings in TIE's offices, but I assume he would have been briefed by Finance or City Development, but perhaps not on everything.

207. I would have seen a joint report provided by Donald McGougan and Andrew Holmes at the time: (**CEC02083538**). This was not a confidential document, it is a standard publicly available Council report. I had involvement in drafting some elements of it. The report, however, does not accurately reflect my understanding of matters at that time – there were areas that were not right. It was painting a rosier picture than it should have. The report advised that the estimated capital cost of phase 1a was £498m, and that there was a 90% chance that the final cost of phase 1a would be below the risk-adjusted level. Fixed price and contract details would be reported to the Council in December 2007 before contract close.

Revenue risk

208. In terms of TEL's locus the main risk retained by the public sector was 100% of the revenue risk for operation. This would last every year for 30 to 45 years

209. There were various revenue projections for the Initial Business Case: one pessimistic, one a best guess and one optimistic. The revenue choice made was the most optimistic. This meant that there was only a 20% chance of it being achieved. Hence, there was an 80% chance that it would not be achieved. There were also development assumptions, including plans for housing, particularly at Western Harbour, Granton and Leith Docks which appeared extremely optimistic to me, but Andrew Holmes was insistent they would be achieved, and exceeded. As it transpires even if the least optimistic revenue projection had been chosen, it would still have been too high.

210. There were a couple of assumptions that did not dramatically change with the Business Plan in all its versions. This included that around 80% of the patronage on the tram would transfer from the bus and 20% was from other sources – generated journeys or transfer from car. The implication was that LB would lose this number of passengers, and service frequencies would be adjusted downwards to compensate, and the cost of running the tram would be recouped by cost savings from running less buses.

Business plan

211. There were many cuts of PWC's first draft Business Plan. PWC initially received incomplete information, and some of the information provided to them by TIE was just wrong. One of the big issues that fed into the cost-benefit ratio ("CBR") was the value of time. TIE altered the journey times so that there was a more positive CBR. There was also something called an interchange penalty, which was a penalty put in place because people do not like changing from one mode of public transport to another. People are less likely to use public transport if their trip involves changing vehicles because changing is an inconvenience. The result of that effect is quantified in what is called the interchange penalty. PWC, quite rightly, put the interchange penalty in the first draft Business Plan because it was in their instructions. TIE later told them to take that out because it contributed to the numbers not providing the answer they needed.

212. A clear example of TIE manipulating the figures, indeed over inflating projected passenger numbers, to get the answer they needed. The basic ethos was that TIE needed to produce an IRR and NPV that satisfied the Scottish Executive's investment guidelines (a CBR of 1.0 as an absolute minimum, and really 1.3 or more) TIE needed to manipulate the information in order to get the Business Plan numbers that were required for funding approval

213. My view of Stewart McGarrity was that he was a straight and honest guy, and I never had any doubts about him. He appeared to know his stuff and be competent. However, I did have concerns with him regarding the Business Plan. What follows is an example of the sort of pressure that the people at TIE were under, either directly or indirectly to ensure that come what may the information produced would ensure the project proceeded. TIE had contracted PWC to produce the first draft of the Business Plan. I cannot recall the lead PWC person's full name, but his first name was Rupert

214. If a project is going to receive Government funding then it has to have a CB ratio greater than one This means that for every pound spent on it more than a pound's worth of benefits result. If the project has a ratio of more than zero but less than one then that means for every pound spent less than a pounds worth of benefits result. Naturally government funding only goes to projects that have a CBR greater than one. I cannot remember what the exact CBR was in PWC's first draft of the Business Plan, but it was actually negative, meaning that for every pound spent you worsen the position compared to not doing it at all.

215. I recall attending the meeting where PWC presented their business case for the first time. Rupert stood in front of the well attended meeting and the PWC people went through their presentation They had calculated a CBR of less than zero – a negative CBR. Stewart was the senior TIE officer present. He became very aeriated, and said something along the lines of *how dare you come here saying that for every pound we spend we would actually be worse off, this is not what we require, you know that we need a Business Plan that returns a positive ratio of greater than one. Go away and come back with something that gives us the answer we need.* I have to say that was unusual for Stewart, but it was indicative of the prevalent attitude at TIE.

Final business case

216. I am aware that in December 2006 the draft Final Business Case was presented to Council as myself and others in TEL had involvement in its drafting and approval: (**CEC01758931**).

217. The Final Business Case, version 2, dated 7 December 2007, was presented to Council on 20 December 2007: (**CEC01395434**). My understanding of the extent to which the Infraco price would be a "fixed" price or "lump sum" contract, was there would be very few excluded issues, possibly unexpected discovery of dramatically different ground conditions. By this point in time however, the bidders were expected to have a good idea of what was there

from test bores. It was presented as being very close to being a fixed price, or lump sum contract

218. The TEL Board may well have suspected the civil engineering and utilities figures were not right, we were not in a position to challenge them. We had lots of other things to be doing that were our direct responsibilities and considered that if that was what they were saying, then it was their responsibility.

219. My understanding at that time regarding which party would bear risks and liabilities arising from incomplete and outstanding design approvals and consents was that the risk was transferring to the contractor.

Value Engineering ("VE")

220. VE meant looking at elements of the scheme to see whether designs could be changed to reduce the cost. For example, where an off-the-shelf design had been used for a certain piece of infrastructure, it meant considering whether it would be possible to downsize it or to make it structurally simpler by designing a bespoke solution.

221. It was within the remit of Gallagher and Bissett at the higher level, and certain consultants were employed to do it notably Jim McEwan, one of Willie Gallagher's old pals from Scottish Power. There was also review by some of the TIE team.

222. TEL were involved in VE, but to a relatively limited degree because the costs of the project that TEL had direct responsibility for was less than 20%. We looked at our sections of the construction and our purchasing, for example of the tram vehicles. We considered whether there was anything we could take out that would reduce the cost. One issue I remember was the need for a wheel lathe in the depot, which was a fairly expensive piece of equipment. In order to maintain tram wheels, a worn wheel is taken off the tram, put on the

lathe, and the lathe skims layers of metal off the wheel until it is true again. We considered whether we actually needed a wheel lathe, or whether it would it be cheaper to take the wheels off and send them away to somebody else. The end result was yes, we could do without one, but the costs of using an outside contractor gave the wheel lathe a payback of circa 5 years, so it stayed in.

223. I cannot be sure, but I do not think the VE proposals were substantially complete before Preferred Bidder stage.

224. In an explanation of VE sent to Transport Scotland, it is clear that savings are assumed and are necessary to achieve budget. I received an email from Geoff Gilbert with a VE table in February 2007: (**CEC01793672),** (**CEC01793673**). I cannot see any problem with reporting that the budget could be achieved on the basis of VE opportunities that had not yet been brought to fruition so long as they were realistic proposals. There were many discussions about meeting the budget by making value engineering savings.

225. Clearly anything that would take cost out of the project was useful but I don't think that Value Engineering was ever going to make the project achievable within the original budget. There were VE savings achieved but I do not know how many, and I believe the majority of them were in track form, overhead power supplies and sub-stations. For example, stretching the distance between sub-stations and accepting a greater voltage drop. I felt that VE was a *Johnny come lately* to the project, and was brought in when it became obvious the money was short. I think this caused problems as designs that had been completed were opened up again and slowed things down.

The Infrastructure Contract (to December 2007)

My role

226. I had little involvement in the negotiation of the Infrastructure Contract other than being in meetings where the topic was being debated. I am aware of an intention to form an Infraco and Tramco evaluation and negotiation sub-committee of the TPB, comprising myself, Willie Gallagher, Matthew Crosse and Stewart McGarrity. This is detailed in the minutes of the TPB on 20 February 2007: (**TRS00004079**), page 7. I have no recollection of actually being involved in a sub-committee involving Infraco, but I may have been. I can however recall the Tramco evaluation.

227. I was kept updated on significant developments that arose during negotiations through the normal reporting procedure at TPB and TIE Board meetings. I would be attending these meetings and hearing of issues concerning Infraco, but I had no active engagement in the negotiations myself.

Infraco

228. I am aware that, at a joint meeting of the TIE Board/TBP/Legal Affairs Committee that took place on 15 October 2007, the Boards were advised that the Infraco bids were primarily based on preliminary design: (**CEC01357124)**, page 10. Clearly there was scope for possible increases in cost when Infraco bidders were provided with detailed designs, particularly when the approvals process via CEC had led to significant changes from the original proposal.

page 10 should be page 11

229. I have a vague recollection of giving a presentation of the Tram Business Case to council members at a meeting of Council on 25 October 2007 along with Andrew Holmes and Willie Gallagher: (**CEC02083536**). I recall Willie Gallagher saying in his presentation that in total, 99% of costs were firm, fixed or based on agreed rates. That does not accord with my understanding of what was being said behind the scenes.

230. My understanding at that time was that the Infraco contract was intended to be a fixed price contract on the elements that they could fix but there were a number of elements that they could not fix. I really did not have a detailed knowledge of allowance made for risk and what risks were covered by the risk

allowance. My suspicion at the time would be that it would have been understated.

231. With hindsight, and in view of Andrew Fitchie's position and behaviour, there is absolutely no doubt that it would have been a good idea to have had an independent legal review of the contracts. I think I would have thought that at the time due to my concerns already mentioned.

Tramco contract

232. The only contract TEL were solely responsible for was the Tramco contract and I was directly involved with it, although I did also have involvement in a few elements of the Infraco contract.

233. Fundamentally, there were no difficulties with the Tramco contract. It is the only bit of the tram scheme that went smoothly. We inspected various trams, we tendered, and we selected a preferred tenderer. One of the other tenderers complained a bit, but they did not formally lodge a request for a review. The contractor was very good, they were keen to get the work and to get into the UK market, and they bent over backwards to give us exactly what we wanted at a good price. I understand they delivered on time and on budget. I discharged my duties and to my mind it all worked perfectly. I would place on record me appreciation of the skilled professional assistance given by David Powell, a contractor who was of enormous value.

Wiesbaden Agreement

234. I am aware that in December 2007, discussions took place in Wiesbaden, Germany, between representatives of BBS and TIE and that an agreement, or heads of terms, were reached (the Wiesbaden Agreement): (**CEC01429993**). The final agreement from Wiesbaden is an attachment to an email from Stuart McGarrity to Dennis Murray: (**CEC01123856**), (**CEC01123855**). I was aware of the discussions taking place, although I was not party to them because it

was Infraco and BBS. I sat in when it being discussed but I did not have a significant input in it, as Infraco was generally not my responsibility.

235. My main recollection of what had been discussed and agreed at Wiesbaden is of Willie Gallagher coming back in high spirits proudly saying, "*that's it, we've sorted out the way ahead, it's cost us a bit more money but progress is achievable*".

236. At the time I saw the similarities to Neville Chamberlain returning from Munich in 1938 waving the "peace in our time" document, and wondered if this time there would be a happy ending.

237. Initially I was made aware in conversation that agreement had been reached, and subsequently it was considered at TIE Board and TPB in greater detail. This is referred to in the minutes of the meeting of the TPB on 19 December 2007 and the slides presented to that meeting: (**CEC01363703**), (**CEC01483731**). There was a reasonable amount of questioning.

The Infrastructure Contract (from January 2008 onwards)

Negotiation

238. I would describe the progress between Final Business Case in December 2007 and signature of the contracts in May 2008 as hurried in the extreme: (**CEC00079902**), (**CEC01422925),** (**CEC00080738**), (**CEC01372584**), (**CEC01231125**). We were all involved in a lot of long days, late nights and weekend working.

239. The main issues and difficulties that arose during this period were getting the contracts to a point where both sides were as comfortable as they could be and with Andrew Fitchie happy that they could be signed off. The issues and difficulties were many and varied with a contract of this size. There were no huge issues from TEL's perspective, most were about the Infraco contract. I recollect that some of the big single infrastructure activities were problematic, like the retaining wall at Russell Road and some of the bridges.

240. I was kept updated of significant developments verbally through phone calls, emails and attendance at meetings.

241. The minutes of 9 January 2008 TPB say on page 38 that, *"the principal pillars of the contract suite in terms of programme, cost, scope and risk transfer have not changed materially since the approval of the Final Business Case in October 2007":* (**CEC01015023**). I was unaware of anything really substantial having changed.

242. There was a joint meeting of the Tram Project Board/TIE Board/TEL Board on 23 January 2008: (**CEC01246826**). The minutes of that meeting note at paragraph 5.4 that a number of concerns remained outstanding in relation to the prior and technical approvals. They also note that establishing a baseline and programme for prior and technical approvals, with buy-in from SDS, BBS, TIE and CEC, was essential. It was also noted at paragraph 5.5 that Willie

Gallagher had explained that BBS, "*had differing expectations of the level of design completion prior to novation and are concerned about programme impacts arising from approvals delays*". I attended meetings where this was discussed and although not directly involved was aware of the matter. My understanding at the time was that the prior and technical approvals related to the design of bridges, viaducts, culverts, track design etc. If those elements had not been firmed up, signed off and approved, then the contractor would be trying to submit a price based on something that they do not know the full detail of. The less that is signed off, the greater the contractors' prices are going to be, and the bigger the uncertainty premiums they are going to add in to their prices. If they have got a specific design for a specific piece of infrastructure that is agreed by all parties, they will price that. If it is more fluid, their price will leave them more leeway in case the final design is actually rather more complicated than they would have expected. The alternative is that item is removed from the contract spec and price to agreed once the design is approved and final.

243. I attended a joint meeting of the Tram Project Board and the TEL Board which took place on 13 February 2008: (**CEC01246825**). Final design packages were now expected in late 2008 and all the critical designs would be identified and dealt with in the programme. The fact that final design packages were now expected in late 2008 caused concern. IT was not an ideal situation to be signing up to a contract where there were substantial grey areas. At that time planned Contract Close had slipped back from March to June or July. This was not a comfortable place to be in.

244. Things should have never been allowed to get into this state. But Tie were where they were, and they had only 2 options. Postpone until the design was complete and a true fixed price contract could be obtained, but run the risk that tender prices would have risen in the interim (and further media, public and political opprobrium would come their way), or get the contracts concluded with the shortcomings, hope for the best, full steam ahead and to hell with the icebergs.

245. There was a progress report provided to the meeting of the Tram Project Board on 12 March 2008: (**CEC01246825**). It noted on page 12 that, *"SDS submissions to CEC for their approvals are now timed such that, in some cases, construction is programmed to commence before approval has been completed"*. It noted on page 19, *"Design. The delivery of design to meet the construction schedules for various structures is causing concern and detailed reviews and discussions are underway with SDS, CEC and BBS to provide solutions"*. I was aware this was on going elsewhere, but this was only one of the concerns I held about the project by this time.

page 19 should be page 20

246. I have considered a summary of price increases and note an increase of £30m between October 2007 and May 2008: (**CEC00132442**). I see there is also mention of a discount of £1m for Construcciones y Auxiliar de Ferrocarriles ("CAF"). The Consortium was originally intended to be Bilfinger and Siemens. CAF were brought in later and it became BBSC. There is an allowance of £2.3m for new design of tram stops. My recollection is that it was not so much a new design, but that the original simply provided a platform and (extremely basic) shelters, and they were enhanced by adding lighting and information points. The only tram stop where any serious design was required was at the airport.

Agreement

247. A joint meeting of the Tram Project Board and TIE Board took place on 13 March 2008: (**CEC00114831**). The minutes note in paragraph 3.2 Willie Gallagher having explained that, "*the position with BBS was settled in terms of price, programme and scope for Employer's Requirements, however two key items were awaiting resolution: a) Network Rail issue on the cap on economic losses; and b) SDS novation*". I am aware that at that time there was an increase in the Infraco price of approximately £10m, from £498m to £508m. The minutes also note Mr Gallagher as having explained that the buy-out of the risk of SDS non-performance was considered good value for

money. Key items in the risk allowance included significant sums for programme delays, unforeseen delivery issues, design and consents issues and MUDFA related issues. 95% of the combined Infraco/Tramco price was stated to be firm and the remainder had been reviewed by both TIE and BBS for adequacy.

248. It was noted that the boards expressed the desire to stress the achievements of the proposed deal in all communications, including the fact of fixed pricing The boards were keen to stress the fact of fixed pricing because by this time we were a couple of years into the public and media maelstrom of bad press coverage and prices going up, etc. The Boards were keen to be able to stress the fixed pricing for Public Relations, Media, Scottish Executive and Transport Scotland consumption. Behind the scenes I believed some of it was fixed but I did not believe it was a fully fixed price contract. My understanding right up to the time of Contract Closure was that a fair bit of design on some relatively important and complex sections was not concluded. I knew where we were on Tramco and that all loose ends had been tied up and we were good to go on signing, but I had serious doubts about Infraco.

249. In an e-mail dated 21 March 2008, Willie Gallagher advised, "*Last night, we successfully concluded agreements on the price schedule and the Infraco detailed contract. There is no change to the overall price, scope and Programme reported to the Board*": (**CEC01491920**). There was so much design work outstanding. I would have been surprised if BBS, in particular, rather than Siemens had agreed to it. However, if he said they had I was not going to ask him for documentary evidence.

250. At the time of contract close, I was given to understand that BBS and TIE had agreed that they both, bore risks and liabilities arising from incomplete design and outstanding statutory approvals and consents ,but with BBS taking on the lions share of the risk. I.e., there was still some potential liability to remain with TIE but a minor share. While I might have had my doubts that this was the case, I had no reason to go and start investigating. This was not my department.

251. At the time of contract close my understanding of the purpose of an agreed base date for design information was that it was the date when the design was taken as being priced firm to.

252. I knew the Infraco price included a contingency for design issues, but no more than that.

Concerns

253. PB had concerns about the novation of the SDS contract into Infraco, and it appears from pages 57 – 63 of the paper submitted to the TPB dated 18 September 2006, that these concerns were raised at an early stage of the project: (**CEC01688881**). I do not recall when I became aware of a potential difficulty in the novation of the SDS contract into Infraco. I recall discussions about novation not being straightforward, but that is all. As far as I was aware, my involvement with SDS, which was not much, was signed off and there were no issues.

254. I did not have a detailed understanding of the matters noted in the minutes of the meeting of the Tram Project Board on 7 May 2008: (**CEC00080738**). The minutes record at paragraph 2.4, *"… DJM (David Mackay) added that BBS could have simply signed the contract and added additional claims later"*. They record at paragraph 2.5: *"AF (Andrew Fitchie) added that BB were extremely nervous about the state of design. However, this should reduce as the contract progresses and the risk of using it as a lever in a claim will reduce …"*. I was confused that these comments were coming out following an allegedly fixed price deal having been achieved.

Approval

255. I have considered the minutes for a meeting of the TPB on 13 May 2008 at which a draft paper stated on page 2 that, *"any final delay to completion will result in significant additional risk regarding project survival"*: (**CEC00080738**),

Doc ID is CEC00079774

(**CEC00079774**). Sometimes something would come up that needed to be formalised and put through a Board, and a virtually instantaneous Board meeting would be called, the available directors rounded up, and a very brief meeting held to rubberstamp it. It is possible this was such a meeting.

256. It is most informative that the phrase used "*any final delay to completion will result in significant additional risk regarding project survival*": again highlights that the risk of project cancellation was still uppermost in people's minds. When it came to risk avoidance this was the risk that outranked all other risks.

257. I was copied into an email dated 12 May 2008 sent by Graeme Bissett to individuals in the City of Edinburgh Council, DLA, and TIE. This email and its attachments contained the documents that required to be approved prior to signature of the contracts: (**CEC01338846)**, (**CEC01338854**). These are examples of documents, for example the TEL Business Plan, which were put in front of me that I was told I needed to sign to complete various legal requirements and authorities. The contents of some of the documents I was aware of. Others, for example the TIE Business Plan, I was not. In fact, I was not clear why I would have to sign that because I was not a Director, or officer, of TIE. This email has come out at 8 o'clock at night so this is clearly getting close to contract sign. All the documents would have been scrutinised by the relevant people earlier, when they were drafted, produced and finalised.

258. A meeting of the TIE and TEL approvals committee was held on 13 May 2008. (**CEC01289240**). We needed to formally sign-off approval of the TIE operating agreement and the TEL operating agreement. This was necessary to tick the appropriate governance boxes. The operating agreements are lengthy documents and there was detailed consideration of these. I was comfortable with the TEL operating agreement.

259. Overall, I was not confident that the contracts should be awarded. I felt pressurised to sign. I was in a situation where, if I refused to sign, the Council Solicitor, Donald McGougan, David Anderson and others would say I was holding things up. I felt I might be told that, if I didn't sign, an immediate Board meeting would be convened and I would be removed from the Board.

Governance and Reporting

Structure

260. Regarding the relationship between the CEC, TIE, TEL and the TPB, essentially the CEC were the sponsors of the project and TIE was the body they had created to procure and deliver it. Ultimately, responsibility for delivery of the project was with CEC who were the sponsors. It was up to them to make sure it was delivered on time and on budget, acting, where appropriate, through their subsidiary companies. TEL was the body created to specify the operational aspects of the project and run the tram once it was built. The Tram Project Board was an attempt to bring together all these disparate parties in one forum. The TPB had representatives from each.

261. I think the main boards and committees understood the relationship between each other, even when they did not like it. As regards the chain of responsibility, there was a lot of uncertainty around which body was actually responsible for some things.

262. I was not involved in the drafting of the operating agreements, but I was certainly very much involved in the review, amendment and editing of numerous iterations of both the TEL and the TIE agreements. I am aware that it is noted in the Minutes of a TEL Board Meeting on 19 December 2007 that neither agreement was finalised and that they were *"still very much work in progress":* (**CEC01514617**).

263. I do not think there was a belief that having a detailed operating agreement would suddenly make the whole project run better. Formalising relationships

in lengthy documents was seen as a bureaucratic necessity in the context of governance. An operating agreement was not actually going to move things forward greatly, so I do not think it was seen as a particularly high priority.

264. I was not concerned that delays in the drafting the operating agreements would potentially affect the progress and governance of the project, or delay the project. They were just formalising the way things were already working. For example, Lothian Buses ran for eighteen years without an operating agreement with CEC. It was then decided, for governance purposes, that an operating agreement was required and one was put in place. But it did not actually change anything on the ground one iota.

Councillor oversight

265. It was my impression that a number of people who attended the TIE Board meetings did not understand what was being talked about. That was particularly the case with the politicians who attended. I recall that some of the TIE Board papers were two inches thick and were issued to all the attendees some days in advance of the meetings in sealed envelopes so they could be considered in advance of the meeting. Some of the Councillors would turn up at the meeting, and would tear open the envelope for the first time at the start of the meeting itself. No prior preparation there then. They were looking at very complex issues, things that took a bit of time to study, not a few minutes before the Board meeting started. Some of the Councillors treated the meeting like just any other monthly committee meeting in their diary which they had to attend. In my opinion there was no perception amongst some of how complex and large the project was, and they did not give it the importance it needed or deserved. This was after all the biggest and most expensive project the city was involved with at that time. The Councillors that attended did not have the skills, knowledge or expertise to understand ninety percent of what they were being presented with. There were some who genuinely tried, but many did not, and some for whom it was all just beyond them. Some of the elected members on the board never even turned up. I think Councillor Maggie Chapman (Green Party) did not attend a single Board

meeting. I got the impression that some elected members sat in on the Board meeting merely because they needed to be there in terms of governance.

266. This suited some of TIE's desires quite well, as it meant that many councillors on the board were largely ineffectual in terms of holding TIE to account.

267. There was also a degree of deliberately obscuring things from the Councillors on TIE's part. Rather than providing a three-page Executive summary, TIE would issue the whole fifty page report. I think that there was a degree of overloading the elected members with information to avoid them asking questions. They were generally not presented with brief succinct executive summaries, which they could have read and understood. They were instead overloaded with lengthy documents, often of a technical or detailed financial nature. Blind them with science.

268. TIE board meetings were normally held in the morning. The significance of the items on the agenda often increased as you got further down the list. That was intended by TIE, because they knew the Councillors had lunch commitments or committee meetings to go to in the afternoon. There might be a 15-minute discussion over a £5,000 issue at item 3 on the agenda. But a £10m issue at item 22 on the agenda, would go through on-the-nod because the elected members needed to go to get to their next meeting. Indeed frequently meetings would over run and councillors would leave before the end.

269. Outside the tram project, when I attended Board meetings where complex issues were being discussed there was a much greater use of Executive summaries. Those summaries set out the main issues in plain language. It takes a bit of time for somebody to produce that synopsis but it is perfectly doable. If you are going to have non-specialists, i.e. politicians, on a Board, and you want them to take a meaningful part in the operation of the board and decision making, the best way of achieving that is by producing summaries.

270. I had an involvement with the risk register, which was on the agenda at every TIE Board meeting. The register was reviewed and was regularly updated to reflect changes. However, it sometimes felt like a box ticking exercise, a duty which had to be done to meet governance requirements and was necessary, but was often done perfunctorily. I did not get the feeling that risk management was given the priority or the importance that it should have had. That said some of the things that were highlighted in the risk register did get seriously debated.

CEC oversight

271. Theoretically, both CEC and Transport Scotland had objective oversight of the tram project. They both exercised this inadequately and without the required diligence.

272. Although, theoretically, CEC had overall control of the project, in practice one did not get that impression. CEC, some of both its officers and its politicians, did not behave in the manner you would expect a body with the responsibility for Scotland's largest public works project at that time, to behave. As the project increasingly became more problematic, it appeared that both CEC and Transport Scotland exerted less and less control over it. It was the complete opposite of what you would have expected them to do. I cannot remember the Chief Executive of CEC, Tom Aitchison, ever appearing at TIE's offices or, indeed, ever being involved in any meetings about the tram, other than public meetings, or meetings where politicians were present.

273. CEC was something of a log jam in terms of getting decisions made, documents proofed and approved and so on. Throughout the project, things would be sent to City Development for review, comment or approval. After much chasing eventually they would reappear. That was the case with the operating agreements. My P.A. would put things in my follow-up system for say two or four weeks. Frequently I would be chasing for two, four, or eight weeks to get fairly routine things back that they simply had to read and approve. The problem was getting CEC staff to actually make a decision and put their name to something. The CEC blame culture was I suspect part of the

reason – if I OK this and it goes wrong I'll get into trouble, if I do nothing I can't be accused of making a bad decision.

274. The minutes of the meeting of the TPB on 20 February 2007 note that "*Serious concern was raised about the speed and efficiency of decision making, particularly by stakeholders, in relation to the project":* (**TRS00004079)**, page 7, item 5. This is code for CEC sloth. My instinctive reaction is to assume this related to approvals from CEC. Andrew Holmes' response would suggest that this did concern CEC, City Development and the planners, taking inordinate amounts of time to clear and authorise, design issues. Submissions disappeared into CEC and took an unacceptably long time to come out again. The whole thing was painfully slow, and for TEL completing and actually running a tram service just kept moving further away. It was a year on from the last time when the project completion date had been three years out, and completion was still three years out. It was like trying to run up a down escalator.

Tram project board oversight

275. Its role, remit and responsibility was to oversee the delivery of the project. I do not recollect what powers were formally delegated to the TPB, although I know what role it pursued and what powers it acted as if it had. The TPB formally reported to CEC. In reality it also reported to each of the constituent companies involved. I do not think they saw themselves, however, as actually reporting to anybody. The TPB in some ways saw itself as above that.

276. The TPB had an executive role and was a decision-making body. Although it might decide it wanted to do something, it would generally still have to be ratified by the TIE Board or the TEL Board as appropriate. They were not able to provide truly independent, objective oversight as its Board members were members of TIE, TEL and CEC.

277. There was not as much delegation of powers from the TIE and TEL Boards to the TPB as might be thought. The TIE and TEL Boards were still the decision-making body for the issues under their control.

278. I note the Progress Report produced by TIE in September 2005 for the Scottish Parliament states at paragraph 1.9 and also at paragraph 9.2, that, *"The members of the Tram Project Board act as champions of the project within their respective organisations for the progression of necessary permissions and approvals. The TPB operates under delegated authority from the Board of TIE Ltd and in turn provides the Tram Project Director with delegated authority to deliver the project"*: (**CEC00380894**). As a member of the TPB, part of my role was to act as a "champion". However, that should not be taken to mean unequivocal and unquestioning blind support. As Chief Executive of both TEL and LB, my job was to ensure the progression of the tram project **consistent with delivering a top rate integrated transport system for Edinburgh**. It was not a question of blind faith; my job was also to raise issues where they were of concern. I had responsibility for public transport in the City of Edinburgh and its environs, of which the tram was only ever going to be a small part. On occasion that meant my views of the way things should be done were different from those who were focussing solely on the tram project.

279. Up to certain limits, the TPB operated under delegated authority from the Board of TIE. In turn, the TPB provided the Tram Project Director with delegated authority to deliver the project.

280. I was a member of the Edinburgh Tram Project Steering Group and I have seen a TIE document which sets out its objectives and remit: (**CEC01764016**). This was early on, but after the issue of competition had been dealt with. I do not believe it was a precursor to the Tram Project Board judging by the people who are listed as members, but my recollection of it is vague.

281. A draft remit for the TPB in 2005 notes on page 52 that the TPB, *"should ensure effective mechanisms are in place to manage the project and in particular that: rigorous controls over expenditure are in place and being operated effectively"*: (**TRS00008528**). Again the issue was that the TPB was not truly independent, senior TIE staff sat on it and influenced its activities. TPB did not normally get involved in evaluating tender bids or prices submitted. That remained with TIE. TPB might revue, and offer advice, but ultimately it was TIE's call. TPB was not involved in the detail of expenditure at a day-to-day level. TPB had no formal expenditure monitoring procedure that I can recollect. The blame for TIE's failures cannot be shifted onto the TPB, and not everything that TIE did was reported or went through the TPB. I am not suggesting they were deliberately hidden, just that TPB tended not to get involved or concerned with what it and TIE perceived as routine expenditure. Not everything could go through TPB or it would simply be creating a double decision-making process.

282. I cannot say that I personally had concerns about the adequacy and reliability of the information I received at the TPB. As I was so closely involved in the project on a day-to-day basis, I knew what was going on. I would be aware of things because I was involved in it or because I was told about it at the TPB or other arenas.

283. I was aware that TIE had a clear, and regularly updated, master programme for the project: a critical path analysis. I cannot remember whether the program was regularly presented to the TPB. I know it was there and it was not confidential within the project. The critical path was not always logical from a construction viewpoint.

284. There was inevitable duplication between "*the scrutiny by the TIE Board of its Executive activities and the oversight role performed by TEL and the TPB,"* as referred to in the papers for the TPB meeting on 23 January 2008: (**CEC01015023)**, page 76. If everything had been taken to every Board, nothing would have got done, and life would have comprised endless

repetitive meetings. Arguably this goes back to the unnecessarily complicated structure and duplication within the structure.

285. The papers state, *"this situation is normal, if TIE's role of providing a service to its client, in this case TEL, is borne in mind"*. TIE's client was CEC, not TEL. Whether Graeme Bissett's then current version of governance structure showed that TEL was the client I cannot recollect, but as TEL was a CEC company also, ultimately it was CEC's project and they were the client.

286. I cannot recollect when or if the TPB and TEL Boards were actually merged, nor who made this decision. If it did happen, it cannot have lasted for long.

Evaluation sub-committee oversight

287. At page 69 of the in the TPB papers dated 20 March 2007 the Infraco/Tramco Evaluation sub-committee is mentioned: (**TRS00004079**). The Tramco one concerned whittling down the potential suppliers to a short leet, and was set up to evaluate those who had expressed an interest in the invitation to tender. I cannot remember whether Willie Gallagher was part of the Tramco sub-committee but I suspect not. I would be surprised if there were minutes for the Tramco sub-committee, it was not that formal. We would meet, agree amongst ourselves, and do a note of where each of the parties were with their respective bids. That said, we had to keep enough documentary records to make sure we were not leaving ourselves open at a later date to a challenge from the unsuccessful bidders. I believe David Powell would have kept the records, he was the one most in direct day to day contact with the bidders.

Complexity

288. The governance structures in place for the tram project were, to my mind, overly-complicated. This is highlighted on page 26 of the agenda and papers for the TIE Board meeting on 22 August 2005: (**TRS00008528**). That impression came from being involved in the project and observing the number of different bodies involved, some of whom had non-aligned aspirations.

289. I do not believe it was necessary to have the TPB, TIE and TEL. It would have been far simpler and far more efficient if there had been one body responsible for the whole project in toto. That body could have had different divisions, for example a design division, a procurement division and a construction division Once the tram was up and running, those divisions would dissolve and an operating division remain to undertake the operation. It would have made the whole governance much simpler and more effective because you would have been dealing with different divisions of the same body. The creation of completely separate companies complicated matters, introduced tensions, and brought no obvious benefits that I could see.

290. I consider there was duplication and a lack of clarity in relation to the roles of TIE, TEL and the TPB, which had the effect of wasting time and causing delays in decision making.

People

291. At the top level, I do not consider that any individual involved in the tram project had sufficient relevant expertise and experience in planning and managing a major transport infrastructure construction project of that complexity. There were people there who had been involved in big projects, and similar projects, but not at a senior level. Some of the technical engineers had been, but not the people at a senior level. I have not been involved in a laying-of-rails project, but I have been involved in some sizeable civil engineering jobs, and you can tell when somebody is out of their area of expertise.

Raising issues

292. Problems regarding delays in design, and design approvals and consents, and the knock-on effects, were certainly reported within the organisations. We were all well aware of the various delays and problems, as referred to in, for

example, the Minutes of a TIE Board meeting on 2nd October 2006: (**USB00000256**).

293. In terms of there being an absence of documentation showing me raising concerns, there are three points.

First, the board meeting minutes for TIE were brief. They were by no means a verbatim record of what was discussed, and little controversial or critical was included. Frequently I was a lone voice expressing a concern that the audience did not want to hear, (and even less want to see recorded in print) so a lot of my comments did not make the minutes.

I was seen as someone who vocalised inconvenient truths, and that was why I was labelled as being negative.

Second, I usually raised my concerns with the relevant individuals on a one-to-one basis so there will be no documentary record. My belief was and is, that far more can be achieved by discussing matters quietly in private with the relevant people and trying to explain my concerns and effect a change in their stance that way. When one raises the same thing in a meeting with persons from other organisations present it is far more confrontational, and the person whose stance you are challenging becomes defensive as they do not want to be seen to back down or change course in front of the others present. My policy was always that the best thing to do was to try to influence and lobby people who could do something about the problem quietly in the background. I was never one for airing controversy in public. It rarely achieves anything other than hardening the attitude of the other party

Thirdly, if having pursued the issue privately, and failed to persuade them of my points, there is no point in raising it publicly unless one is confident others at the meeting will back you. If not why sour relations over an issue you are not going to win, and make thigs that much harder for yourself the next time you go to them wanting their assistance.

Softly softly – catchee monkey.

294. There was no point raising concerns with Andrew Holmes as I found him unreceptive to pretty much anything I raised. Andrew just wanted the tram built as quickly as possible, and had no interest in the operational phase that would follow completion. He viewed me as a problem as my objective was different to his. I shared my concerns with Tom Aitchison and Donald McGougan. Tom and Donald took a balanced view of both the short and long term, construction and operation. I was aware that Jim Inch carried the role of monitoring officer, but I never saw him on TIE premises and neither did he attend any meetings that I did. I assumed it was a role that someone's name had to be against as part of governance box ticking. In terms of politicians, I had many heart to hearts with Andrew Burns, Donald Anderson and Tom Buchanan. Latterly I also had dialogue with Jenny Dawe. I raised my concerns in the manner that I thought would be most effective: with the appropriate officers, and with politicians who were in a position to do something about them.

David Mackay was aware of my concerns, and quite a number of times he took them forward very forcefully and got results. He wasn't subtle, but his raging bull approach did deliver. I also raised concerns with Willie Gallagher whose response was always, *"thanks for telling me that Neil, I'll look into that."* Nothing ever Often little happened

Political dimension

Political role

295. Throughout this period, and throughout my whole time with LB and Tram, I had very close contact with relevant politicians. Some politicians changed from election to election as already mentioned. The politicians I was most in contact with, in addition to those on the TIE board, were: the leader of the Council, the Convenor of Transport, the Convenor of Business Development,

and the transport spokesman for each party. There were also MP's and MSP's. mainly those with Edinburgh constituencies, or those who held the transport brief for their party. I was immersed in in Edinburgh's transport in an operational and political sense. The start of my time, 1999 coincided with the birth of the Holyrood parliament, there was a confidence about, a sense of expectation 'the dawn of the new era for Scotland', we had our own Parliament and our own MPs. Here we were in the capital city of a newly emergent state within Europe. Green issues were becoming mainstream for the first time, and public transport ticked all the environmentally friendly boxes. It was an exciting and inspirational time, and Lehman Brothers/Royal Bank was still 8 years away, government money was available for "grands projets", and Edinburgh were getting a tram – the politicians were interested in public transport for a change !

296. David Begg was proposing congestion charging for the city as a means of reducing traffic congestion and of providing funds which would be ring-fenced for transport projects. The Scottish Government had made it clear that, in principle, there was money available from them for a transport project for Edinburgh. There was a general bonhomie and positive attitude stemming from devolution and having much greater charge over our own destiny. Edinburgh had a Transport Convenor who punched above his weight. and some ways David Begg was not just Convenor of Transport he was almost the Deputy Leader of the Council.

297. CEC officers and politicians were looking at two potential sources of income, congestion charging and Government grants. They were looking for a project to spend that cash on. Various proposals were discussed and I was party to some of the discussions of the various options. Those discussions led to the concept of a tram system.

Insecurity

298. Throughout the life of the project it was something of a political football and was repeatedly 'on the edge'. One party would want to cancel it; another one

would want to continue with it and so on. That inevitably led to a sense of uncertainty. The UK Government cancelled all the English tram projects, those in Portsmouth, Liverpool and Leeds, which left Edinburgh as the last man standing. Alastair Darling, who was UK minister of Transport at the time and was MP for Edinburgh South West, and previously Convenor of Transport for Lothian Region, made it known privately that if it was within his purview Edinburgh would be cancelled as well, but transport was a devolved power. The SNP campaigned for cancellation. All that inevitably led to considerable insecurity on the part of those employed on the project. There was also a reluctance amongst the more desirable of potential employees to apply for employment with an operation that appeared to be on the verge of cancellation when they currently had a secure job. That partly explains why they ended up with some of the staff they did !.

299. At one point, TIE had been involved in many projects, Congestion Charging, EARL, SAK, etc and one by one those all were cancelled or removed from TIE. The first one to go was congestion charging and then the Stirling bin lorry thing came to nothing. SAK was then removed from them and that left TIE with EARL and the tram. In the run up to the 2007 election, the SNP stated that if elected they would cancel both EARL and the tram. There was horror in TIE. The election resulted in the SNP forming a minority administration, which meant they could only govern with the acquiescence of the other parties.

300. The election was in May and Parliament did not recommence until around September. Over that summer they tasked Transport Scotland with looking for ways out of both the tram project and EARL. Transport Scotland were to consider whether a large section of tram could be built as a guided bus way, or something that would cost an awful lot less than, at that time, their £500m contribution. I had involvement with the TS team looking at the other options but, Bill Reeve who led the Transport Scotland review was not keen on any of the alternative possibilities, and was far more interested in finding reasons why the Tram should/could not be cancelled.

301. I had a couple of long lunches with David McLetchie the then leader of the Scottish Conservatives. At this point the Conservatives on the Council were supporting the Tram, whereas nationally the Conservatives were very sceptical of it. Nationally the Conservatives wanted to come out for cancellation of the tram but they could not be seen to be take an opposing line to their 2 key Edinburgh councillors. Councillors Ian White (group leader) and Alan Jackson (Transport Spokesman) were strongly pro, other Tory councillors were against, and McLetchie and the MSPs were also against.

302. David told me that when Holyrood resumed the opposition parties were going to act together and vote down the first contentious issue that arose that the SNP were in favour of. This was to t ensure the SNP fully understood and publicly demonstrate, that with a minority government the SNP only governed with the acquiescence of the other parties. The first contentious issue to come up for a vote was the continuance of the tram project. The SNP wanted to cancel and all the other parties voted to continue, and thus voted the SNP down. Hence the tram project escaped cancellation by a pure chance of parliamentary timetabling by being the first vote to come up in the new parliament.

303. Little surprise then that uncertainty, trepidation, nervousness and instability were universal in TIE, further compounded by the SNP going ahead and cancelling EARL. TIE was now a one project company and everything and everyone's employment hinged on trams continuance.

304. It was not just the Holyrood (and Westminster) issue. It was by no means secure within the Council either, in that again the SNP within the Council were in favour of cancellation, and voted for cancellation on a number of occasions. The conservative group split on it with some voting against tram, and having the party whip withdrawn. Similarly the labour group was split with some councillors in favour and others strongly against, but their internal party discipline was better, and they always voted together irrespective of personal views.

305. TIE and tram were most definitely not flavour of the month with the local electorate or media, and were regularly savaged on the front page of the Evening News, in the leader column, and in the Scotsman and other papers.

306. Working “under siege” from the politicians, public and media wasn’t going to improve staff morale one iota.

307. I have no reason to be critical of individual Transport Ministers. I have no particular criticism of Sarah Boyack, Wendy Alexander or Tavish Scott in relation to their dealing with the project.

Political requirements

308. The Scottish Government money, from the tenure of Wendy Alexander through to Stewart Stevenson, was conditional on it being a **national** transport project (see later) The funding was only available on this condition.

309. The funding was ring fenced; it was for a tramway and nothing else. What that meant was that the politicians had a binary choice - either build the tramway with the £500m, or not getting the funding at all. There was no way it could be used for say schools or housing. I remember having a long chat with Donald Anderson, leader of the Council at the time, about this issue. Donald's line, and indeed others, was perfectly understandable, that the money could not be turned down whether they were in favour of the tram or not. Donald was concerned that the opposition, the Conservatives and the Liberals, would crucify Labour if the offer was turned down. "*The government have offered the city £500m of investment and you have turned it down !!!!!!!! "!* Hardly a vote winner.

310. It therefore became a question of how to make the best use of the funding, bearing in mind the requirement that it be a **national** project, and to achieve that status had to serve the Airport. Otherwise it would be classed as a local scheme and be ineligible for the £500m. In terms of future revenue earnings from the tram, decisions were made that did not recognise the need for the tram to operate at financial breakeven or better.

311. If it went where the people actually were, like a route via Dalry, Gorgie, Longstone, Sighthill and Wester Hailes, it would be an Edinburgh local project. If it were a local project, then there would be no Government money. All this meant that the tram had to go to the airport even though the commercial case for doing so was far far weaker than taking it to the areas of high residential population density such as above.

312. It was not just the *national project* requirement that determined the route. Andrew Holmes with his role of Director of City Development was absolutely

intent on serving Granton and Leith because of the development plans there. Leith was fine, no problem with financial viability there, but the stretch of line from Haymarket through Wester Coates, Ravelston Dykes, and Craigleith to Granton Harbour - Line 1b - was extremely weak, would be heavily loss making, and was totally reliant on projected development at Granton Harbour and the gasworks and other brown field sites actually happening, if breakeven was ever to be achieved

313. This perfectly illustrates the disconnect and tensions between objectives. Holmes accepted that1b would be financially heavily loss making, but wanted it built "as it will act as an encouragement for new development to take place there " And it probably would, but how was I to fund the operating losses for the many years before the development did take place and passenger numbers achieved viability ? His answer – "that's your problem" Luckily line 1b was not built as to this day that development has not taken place.

Transport Scotland

314. Transport Scotland oversaw and monitored the project prior to May 2007 through two formal mechanisms: (i) attendance at Board and other meetings, both TIE and the Tram Project Board; and (ii) TIE sent them a regular report. Informally there were many phone calls and visits.

315. I could be critical of Transport Scotland employees from a number of angles. I had involvement with all three of Transport Scotland's main officers involved with the project. I would visit, initially Victoria Quay before TS was set up, and thereafter Buchanan House, to discuss issues with them. Damian Sharp seemed perfectly competent, knew his stuff, took an interest, and made sensible decisions. The most commonly present individual was at a lower level, John Ramsay who would spend a day in TIE offices some weeks. Ramsay was someone who did not know anything about buses or trams. He had got not a clue and was no help at all. More of a hindrance as you would

spend time explaining things, and he still got the wrong end of the stick. That further added to the sense of insecurity, in that Transport Scotland appeared not to be taking it seriously. They had sent this person who had no knowledge to be the main linkman.

316. Bill Reeve was I think, Head of Rail Projects, and the Tram came within Rail Projects in TS. He was the senior TS officer we dealt with under normal circumstances. I had not come across him before. He was batting for the tram at every opportunity. When Transport Scotland were tasked by the SNP between May and September 2007 to come up with some alternatives that would give Edinburgh something cheaper, but not the tram, I was very firmly left with the opinion after spending time with him that Bill Reeve's view was not to genuinely look for alternatives. His line of questioning tried to find reasons why other alternatives were less attractive to the tram, rather than identifying what potentially could be an attractive option. I recall thinking that he was asking all the wrong questions and that he had an agenda. I subsequently discovered that Bill was a serious tram enthusiast ,and his overseas holidays were frequently built round visiting , riding on and photographing foreign tram systems. Bill managed to keep his enthusiast interest quiet, but it certainly explained his professional behaviour

317. I would have thought, for the size of the project in the overall Scottish budget, Transport Scotland would have had somebody permanently on site in the team. But there was nobody full time. TS often did not attend meetings of boards/committees they sat on. John Ramsay appeared occasionally for a day, asked a few questions and disappeared. It did seem to be extremely light-touch, and I do not recollect lengthy questioning coming back from the reports that were sent in, although it may have happened and been dealt with by others. I got the impression that, they did not seem to be following it closely. Perhaps they believed that everything was going fine and there was no need.

318. After May 2007, my recollection was that Transport Scotland still got their monthly reports and still required justification for why money was being drawn down. There always had been, and remained, financial monitoring of the money as TS were the disbursers of the governments £500m. They still appeared now and again at meetings, at our request or theirs. Much is made of Transport Scotland's reduced role, including their withdrawal from the TPB. They did step back a bit, but it was not that they washed their hands of it. I got the impression, with hindsight, that some bodies were disproportionately highlighting it – possibly for political reasons. It has been suggested that it followed the SNP trying to cancel the project and the other parties out-voting them. It has been suggested that it was a reaction out of pique, but it did not come across to me like that at the time. The previous light touch became lighter, that's all.

319. Clearly Transport Scotland exercised less oversight post-May 2007, but it had not really been that conscientious substantial to start with and therefore there did not appear to be much impact on their ability to exercise effective oversight. That said, any reduction in involvement by TS staff overseeing TIE was unwelcome as it gave TIE even more of a free hand to do as it wished, and the loss of Bill Reeve was unfortunate as his detailed personal knowledge of tram systems meant he gave valuable practical input.

City of Edinburgh Council

CEC effectiveness

320. By 2007 the tram project seen by many as deserving of cancellation, and some within CEC shared that view **but** for various reasons it had to continue. We cannot be seen to have another failure. One fear was that they would never get any government money again from any Government after WAR WRR, CERT and then tram. The ruling political group were paranoid about being seen to be making a u turn, and all the political parties except the SNP were so committed to the project publicly, in the press, and in the electorates'

mind, that they could not do it. It would be politically enormously damaging to make a u turn after that amount of money being spent. Edinburgh would be a laughing stock. Guidance was sought, and the feedback from government was, cancel it now and you'll have to refund what we've paid you. Further concerns related to the perception of Edinburgh as a place to do business – they couldn't even build a tram line-, and the public and electoral opprobrium for having wasted so much money. Essentially we are so far in we have to continue. We were in a hole, but we weren't going to stop digging, the solution was to order more spades.

321. Clearly, CEC were not sufficiently involved at the highest level. They should have had a far tighter grasp on things. This was the biggest single project ongoing in the city at the time, and CEC really should have had a Director who had the ability to devote full time to it. There could have been a structure that included a (possibly temporary) Director of Transport.(Transport came under the director of City Development)

322. My belief is that CEC were not generally effective at resolving issues that were referred to it. At lower level there were the long time periods taken to respond to planning and change requests. At senior level making decisions on contentious matters – if we leave it long enough it'll solve itself..

323. Consistency of Transport Convenors was a problem. Their average tenure was less than two years throughout the tram project. The same can be said for the Ministers of Transport who changed regularly.

324. CEC delivering the project itself with the assistance of external consultants was not an option after they messed up and wasted government funds on previous transport projects. The condition from Wendy Alexander was that it be delivered by a body separate from the council. I still think an arms-length company was potentially the best way of delivering the project, rather than CEC trying to do it in-house. The concept was correct but thereafter it all went wrong.

Funding arrangements

325. I have very clear recollections of an issue regarding "recharging" and a "wooden dollars" conversation between Tom Aitchison and David Mackay. This is referred to in the minutes of the meeting of the TPB on 31 October 2007: (**CEC01023764**), page 6. Then and for some time previously, LB had been bearing ever increasing amounts of the tram costs in addition to the substantial amounts of staff time. More and more tram costs were going through LB. LB had its Business Plan agreed in advance with the Council each year. If the requirement was that it produced a dividend of £3m for CEC, and it planned its business towards producing that, If £1m or £2m of tram costs were also now being borne by the bus company, then we had to ask what should be done: a cut in services? an increase in fares? A reduction in the shareholders dividend? Something had to give. It would have been reasonable not to penalise the bus passengers, but instead for the money to be remitted to LB by the tram project.

326. There were a couple of tram project employees who were on Lothian Buses payroll e.g. Alistair Richards who worked exclusively for TIE/TEL, was nothing to do with the bus company. By this time David Mackay was on the Board of LB. He had seen Tom and proposed that Lothian Buses should invoice for the directly incurred cash costs. That was the "wooden dollar" concept, where CEC money went to subsidiary A, then to subsidiary B, then back to subsidiary A. It meant a circular flow of money to balance books with inter-company charges, but outside a company structure because CEC is not a company. It was about reimbursing Lothian Buses for the tram costs it was paying.

Personal enthusiasm

327. In the same way that some railway enthusiasts are drawn to working in the railway industry and aviation enthusiasts in the aviation industry, some tram enthusiasts end up working in the tram industry Therefore, it was not

unexpected to find transport enthusiasts working for Transport Scotland or in the Transport Unit at CEC City Development. That was exactly what happened with the Edinburgh tram project. Bill Reeve was a key individual who held a senior position at Transport Scotland. One of the key individuals at CEC involved in the tram project was Barry Cross. Both those individuals were tram enthusiasts. When you went into Barry Cross's office all over his walls were pictures of trams from around Europe. There was also Andy Wood from Transdev. They used to go on holiday tram spotting and taking photographs. There is absolutely nothing wrong with that, indeed it is very beneficial as they have a detailed knowledge of tram systems, how things are done elsewhere, and can often suggest a solution to a problem as the have seen it done on the trams in say Melbourne or Gdansk or wherever. But if it starts to colour their professional judgment then it becomes a problem. You have to watch carefully that they do not start taking decisions based on personal enthusiasm. It is basically an inflated version of Optimism Bias, lets call it Enthusiast Bias. You have to watch out that they do not start living out their personal desires and fantasies through your project.

Tom Aitchison

328. Tom Aitchison was the Chief Executive of CEC throughout the whole period I was there, but I do not recollect once seeing him in TIE's offices. I do not recollect ever seeing him at any Board meetings or strategic meetings. Tom's background was in planning, and he seemed reasonably comfortable with finance, but he kept away from the project. Tram was financially the biggest project CEC had embarked on in recent years, and Tom recognised that the project was becoming the biggest PR disaster in CEC's history. One sensed the project was too 'hot' for him to handle and he sent others to deal with things and report back. I used have meetings with Tom and we would discuss the project one-to-one, but it was clear that he was not going to get involved himself. I think Andrew Holmes would have briefed Tom on the state of things. There may have been omissions and he might not have given Tom more information than he had to. Certainly Donald Mc Gougan would have briefed Tom, Donald attended TIE boards , and his office was adjacent to Toms.

329. I think an awful lot of responsibility must lie on Tom Aitchison's shoulders. Tom, as Chief Executive, should have been on top of it. This was the biggest thing in Edinburgh at the time. The project was huge in terms not only of financial implications, but also of PR and the city's reputation. Edinburgh became a laughing stock as a result of this project. That was not just in the local press and it the transport world – the media were poking fun at it on the TV. For about 3 or four years in the annual pantomime at the Kings Theatre, many of the jokes were about the tram. It was embarrassing and it was painful. Tom just did not engage with the project. I do not know whether that was because he could see what was happening and he felt the best thing to do was to keep away from it. Whilst that might work at a certain level, when you are Chief Executive you cannot wash your hands of a project of that magnitude. It was a 'train-crash' happening right in front of our eyes. The fiasco happened on Tom's watch, ultimately it was his responsibility.

Andrew Holmes

330. Andrew Holmes was very committed to the need for the tramway to Leith Docks and Granton because of the 30,000 or so houses that were projected to go in there. Quite understandably, because if that development had gone ahead it would have placed a real strain on the transport system. Edinburgh's ring road goes round the west, the south and the east of the city, it does not go along the north. The roads in the north of the city, while not uncongested to start with, were going to become a serious issue with an extra 30,000 plus people down there. Whilst buses could have coped, they would have struggled without major investment in new roads or busways. The tram was, in those circumstances a logical solution. Andrew's view on that was quite right.

331. I do not know why, but he was always antagonistic towards LB and was never positive. LB were providing a good bus service for the city and its residents, but the idea of having the tram in competition with the bus appealed to him.

Keith Rimmer was equally ill-disposed towards LB, and I think there are a number of issues behind that. Andrew is a civil and roads engineer, not a public transport person, and does not really understand it, neither did Keith who likewise was a highways engineer. So you had two people, numbers one and two in the department who were far more comfortable building roads and designing traffic light sequences than working out how you shift a number of people from there to there and back again.

332. Both Andrew and Keith had the attitude that CEC must have control over the trams and must be able to determine what the trams did. They hankered back to the days pre-1986 when the buses were a department of the Council like the swimming pools, the libraries or the bin lorries and the council officers told the bus boss what to do. I think another thing that rankled with them was that my salary was substantially more than Andrew's salary. Our relationship was non-existent personally, and was just about liveable with professionally. It was clear he would not want to spend any time with me unless he had to, which was disappointing. If he had worked with us and bought in to the integrated transport system, we could have achieved a lot more with the tram. That was a concern that I discussed a number of times with the Council Leader at the time, Donald Anderson. We used to have monthly meetings and it is probably fair to say that Donald's views on Andrew and mine were aligned. As Director of City Development, he had many things on his plate other than transport but none bigger than the tram.

333. Any time I raised issues that were of concern to me about the design, he appeared not to be concerned, or took a contrary view. If I raised there being virtually no population in and around certain tram stops he was not concerned. I recall raising the issue of the location of a particular tram stop, and he accused me of trying to cause problems, of always trying to find problems and cause trouble. That sort of perception of me made things difficult. It would have been easier to not say anything and let them get on with it, but that is not my way of doing things. I'll say my bit regardless. But

when you have the Director of City Development saying that in front of a room of fairly senior people from CEC, it does feel like you are being undermined.

334. I would confirm it didn't seem to be personal to me, my predecessor used particularly colourful language to describe him to me when I started, and I understand they did not even speak to each other.

Other people

335. Donald McGougan was not that far from retiring and had a fairly shrewd idea of what was going on. He had a lifetime's experience of working in public sector finance and used to get quite angry sometimes about some of the things that happened at TIE. Donald was a quiet chap who saw it all but said little in company. I suspect he was keeping his head down in the lead up to his retirement but in the background kept Tom well appraised.

336. Ronnie Hinds was Donald McGougan's deputy. He left to become Chief Executive of Fife Council. Ronnie Hinds had the measure of TIE pretty well, and would comment that TIE were just telling CEC what they thought CEC wanted to hear. He would comment that the numbers passed to him by TIE did not make sense. CEC were able to see the figures in practice because TIE were drawing money, initially, through CEC. The money was paid into a CEC account by the Scottish Executive (later TS) and then TIE were drawing down on the funds. I recollect Ronnie Hinds questioning the funds that were being drawn down and stating that the figures did not tie-up with what TIE were saying.

337. Barry Cross was fairly instrumental in the initial proposals between 2001 and 2004. He was core to sorting out potential routes. The tram project was always top of his agenda. Latterly Barry was not hugely involved in the tram; his primary involvement was in EARL.

Comment [Office1]: This statement appears to be inconsistent with the earlier statement about trams being top of Barry's agenda

338. None of the Members had any significant relevant knowledge. Some did not try, but some of them did. Fred McIntosh and Maureen Child, tried hard. She was Convenor of Finance in the early days and Fred McIntosh was Transport spokesman for the Liberals.

OGC Reviews

339. I am sure I would have seen a copy of the OGC Readiness Review report that was delivered to the Chief Executive of TIE on 25 May 2006: (**CEC01793454**). but I do not specifically recall seeing it.

340. Similarly, I would have seen a copy of the report of the second OGC review that was carried out in September 2006: (**CEC01629382**). It resulted in an "Amber" rating. It was referred to as the Gateway Review. The message within TIE was do whatever was necessary to get through the Gateway.

341. I did not feel there was a transformation in the organisation, attitude and effectiveness of the TIE team between the time of the two OGC assessments.: (**CEC01793454)**, (**CEC01629382**). There may have been a change of attitude in the way they were approaching things but nothing that struck me as being a considerable improvement. I did not feel that the OGC reviews were particularly searching. The four OGC members spent a couple of days in TIE's office on each occasion. TIE were well rehearsed and prepared for them and the team were, I think, told what they wanted to hear, or what TIE expected them to want to hear. There was only one person on the team who appeared to have a good grasp of what it was all about, and who asked some fairly searching questions. The rest of them did not give the impression that it was something they were well briefed on, or that they knew what they were looking at or for.

342. A third OGC Review was carried out in October 2007 and it resulted in a "Green" rating: (**CEC01562064**). I do not have to go very far to find something

of concern: on page 2 it states, *"MUDFA contractor appointed on fixed rate contract with initial works underway."* The veracity of that statement has already been covered. The only thing that was fixed was the hourly rate. The number of hours worked could be anything from one to a million, so much for "fixed price"

343.

Departure

344. The TPB Minutes dated 19 November 2008 record the announcement of my departure: (**CEC01172283**). I left LB and TEL, and ended my involvement, on 31 December 2008.

345. Even latterly I still thought then that we could get something worthwhile out of the project. But I found it very frustrating working with people who I held little, or no, professional respect for. It became more and more obvious to me that TIE side of things was out of control and heading for the rocks. The quality of appointments to TIE were getting no better and staff turnover was still destroying continuity.

346. Michael Howell went and was replaced by Willie Gallagher, but one set of problems had been replaced by another. It was getting more and more frustrating. By mid 2008 I was convinced the tram project was heading for disaster. I have always been associated with success in every job I have had, and have left every business in a considerably better state than I found it. LB's operations were being seriously impacted by all the utilities works and there were cases of complete gridlock. The city centre seized up for about three hours one day, with nothing moving from the Bridges to the West End. Try explaining to passengers heading to Edinburgh Airport for a flight that there are no buses for three hours because of traffic congestion in the city centre. The points we were making were being ignored, we were getting nowhere and it was getting worse. It was having an impact on LB's financial performance: putting on some 30 extra buses and drivers just to allow for the speed of

operation being slowed down by the tram works was costing dear at a time when passengers were declining as people didn't want to go to the building site that was the city centre, and LB was funding a chunk of tram project costs.

347. I recall sitting in tram project meetings and thinking it was out of control. I would speak out and then be told I was being negative and disloyal by highlighting problems. I would be told I was biased against the trams, when I was trying to highlight the reality of the situation.

348. The prospect of the trams ever getting up and running receded further into the future and I realised that I did not want to face another three or four years of being vilified for providing my professional view on things

349. I recall thinking that I did not need the job. I was waking up in the morning and dreading what the day was going to hold, knowing that I was going to have to spend another four hours in the office listening to people who I would not employ in a minor clerical role. One day I decided I had had enough. I did not want to be the one of those that would be nailed to a cross when it finally collapsed. That is why I went.

Lessons Learned

350. I am aware that members of the public and businesses raised concerns and grievances about the effect of works on them. I received, for example, an email from Willie Gallagher dated 20th October, 2008, with his response to a complaint from a representative of Leith Traders: (CEC01196343). I do not think that CEC, TIE and others were effective at keeping the public and businesses informed. They tried, but for something of this scale the communications were poor. More importantly, if the diversionary routes and arrangements made are inadequate and there are very substantial delays, it

does not matter how good your communications are. The impact of the roadworks and delays was greater than it needed to have been due to ineffective planning, sequencing and timetabling of the works. They were trying to do too much in too many places all at once and it was generally not well thought out. This was a major issue in creating, or reinforcing, the public's antipathy towards the whole project. The tram project, CEC and TIE were strongly criticised in the media over the disruption. It was probably was the biggest issue that turned the electorate, and the public in general, against the tram project. Instead of concentrating their work sites, there would be what appeared to be random work sites all over the place. They did not appear to have the appropriate skills to plan and anticipate the whole thing properly. When work had to be done for a second time it just made the whole project a laughing stock.

351. I saw a paper prepared by Graeme Bissett in June 2008 entitled Lessons Learned: (**CEC01344687)**, (**CEC01344688)**.

352. In the section "*main lessons learned*" , on page 3 at bullet 2 it states "*The success of the delivery entity TIE is critically dependent on the calibre of the people it employs"* **Too true**

353. At bullet 4 it states *" the on street dynamics of an integrated transport system should be addressed at an early stage"* **Too true**

354. At bullet 5 , I paraphrase, it states "*the biggest perceived weakness was the splitting of design and construction"* **Too true**

355. Some of what Mr Bissett says is absolutely right. Some of it is not what I feel, and some of it I do not understand. I think the one thing you can say about it is that it has homed in on most of the major issues. I am not aware whether the paper was ever considered at Committee or Board level and/or finalised.

356. If you have the right people and the wrong paperwork, things can very often work. If you have the right paperwork and the wrong people, things can very often go wrong. Having the right people with the right attitude and the right commitment, skills and abilities is more important than having perfect documents that close off every avenue of risk.

I confirm that the facts to which I attest in this witness statement, consisting of this and the preceding 107 109 pages are within my direct knowledge and are true. Where they are based on information provided to me by others, I confirm that they are true to the best of my knowledge, information and belief.

Witness signature……

Date of signing……..