



**EDINBURGH TRAM  
Highlight Report to the  
Chief Executive's  
Internal Planning Group  
23 December 2009**



**1 Background**

This 'highlight report' is an update to the Chief Executive's Internal Planning Group (IPG) on the Edinburgh Tram Project to inform on the progress on this project and any decisions required.

A version of this report (with commercially sensitive and confidential material removed) is also to be circulated within the Council as a means of communicating progress with the Tram project.

**2 Executive Summary**

**2.1 Matters Arising**

**Evaluation of Financial Contingency Measures, Strategic Options and Financial update**

An update is provided on the financial contingency planning, Governance and the Council's £45m contribution.

**Tram Monitoring Officer Update**

An update on the Dispute Resolution Process (DRP) including a summary of DRPs is provided along with progress on agreeing a further on-street supplemental agreement.

**Communications Update**

Information is provided on the communications being undertaken for the 'Come into Town Campaign' and the media coverage around the re-opening of Princes Street and the importance of having a construction programme for the New Year.

**Tram Legal Agreement with Forth Ports**

The legal agreement between the Council and Forth Ports remains a difficult issue and the Director of City Development has written to FP in an attempt to resolve matters.

**Statutory Council Approvals and Consents**

As the detailed design continues, there are several statutory consents that the Council must provide. These include Planning Prior Approvals, Building Warrants, Roads and Structures Technical Approvals.

**Building Fixings**

Good progress has been made with the court action for the building fixings. Every effort is being made to conclude the fixings by the end of this year.

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

Progress has been made to clarify how tram CAAD applications will be dealt with, and a process has been agreed with all those involved.

**Planned Future Tram Council Reports**

A list of planned future tram related Council reports is provided.



### Future use of Princes Street as an Event Arena

It is recommended that the consideration is given to the future use of Princes Street for events and that alternative locations are considered now to ensure the Council continue to attract high profile events etc.

## 2.2 Matters to Note or for a Decision

- To note the update on the financial contingency planning and financial update.
- To note the Tram Monitoring Officers update on DRP and the further on-street supplemental agreements.
- To note the communications update.
- To note the position with regard to the legal agreement with Forth Ports.
- To note the progress with the Statutory Approvals and consents.
- To note the good progress with building fixings.
- To note the position regarding land acquisition and CAAD applications.
- To note the future use of Princes Street as an events arena and to determine if planning for alternative locations should commence now.

## 3 Evaluation of Financial Contingency Measures, Strategic Options and Financial Update (Presented by Donald McGougan)

### Contingency Planning

As highlighted in previous reports, Finance have now commenced work on identifying and evaluating contingency planning options should the capital cost of Phase 1a exceed the amount of funding currently available. The initial value of these options has been communicated to Transport Scotland.

Following the completion of the Princes Street works, a forensic analysis of the project finances and forecasts has been undertaken.

The main changes to the assumptions underpinning the £524m+X forecast is a significant re-evaluation of the design related issues following the adjudicator's decision on Gogarburn and Carrick Knowe bridges. This has added an additional £4.4m increment to the previous forecast. However, the potential impact of further on-street supplemental agreements has added a far greater risk to the cost estimates. The experience gained from the Princes Street on-street agreement has highlighted a risk exposure of £35.9m related to further on-street agreements. It should be noted that this is an unmitigated number based primarily on full depth road reconstruction and items such as additional costs on track slab and footpath and kerb reinstatement.

The result of the financial analysis has resulted in a high side cost estimate in excess if the 10% contingency planning limit. The figure is unmitigated and represents all the risks that **tie Ltd** currently know about. Mitigations must be put in place to reduce the cost exposure to the Council.





Nevertheless, whilst the figure is unmitigated, the project still has a significant period to run before completion, thereby increasing the possibility of unknown risks and costs emerging.

The optimistic signs of progress following David Darcy's arrival on the project have now been extinguished. As a result, there is now an urgent requirement for serious work over the next two months considering the contingency planning options available should mutually acceptable agreement on programme and on-street agreements not be reached (which appears likely).

### Finance Update

Transport Scotland have now contributed £310.6m to the project to facilitate spending to the end of period 11 of financial year 2009-10 (period ending 30th January 2010). The latest cash application to Transport Scotland is for £11.8m with the Council contributing £1.1m.

The 2009/10 outturn figure is of concern to Transport Scotland. The current forecast call on Transport Scotland funding for 2009/10 is £105m, a reduction of £8m from the previous period. The sensitivities around the current year figure are largely dependant on agreement of an on-street supplemental agreement with BSC.

### Governance

It should be noted that Phase 1 of the revised governance arrangements for the project are now complete. Phase 2 work has already commenced, being led by the Director of City Development.

### Council's £45m Contribution

The Council's achieved contribution currently £15.7m and has been achieved from the following sources;

CEC Contribution Breakdown	Planned Contribution	Achieved Contribution
Council Cash	£2.5m	£2.5m
Council Land	£6.2m	£6.2m
Developer Contributions – Cash	£25.4m	£3.8m
Developer Contributions – Land	£1.2m	£1.2m
Capital Receipts (Development Gains)	£2.8m	£0.0m
Capital Receipts	£6.9m	£2.0m
<b>Total</b>	<b>£45.0m</b>	<b>£15.7m</b>

The Council's financial strategy means the Council have to fund its contribution in advance of recovering the funding from developers and capital receipts. Therefore, the Council have now contributed a total of £30.7m to the project – the difference of £15m against the contributions secured is currently being funded through the Council cash flow management. Transport Scotland had committed to £149m of funding in the current year. The current forecast call on Transport Scotland funding in 2009/10 is £105m. Discussions will take place with Transport Scotland around the possibility of them contributing 100% of funding in the current year which would allow more of the £149m commitment to be spent, saving the Council borrowing funds in the current year.



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

Negotiations are currently ongoing with BSC for a supplemental agreement covering the remaining on-street works on a demonstrable costs basis. There are still significant commercial difficulties to overcome through negotiation before this can be concluded. The major issue is the credit **tie Ltd** would receive based on the demonstrable costs under the supplemental agreement compared to the sums already embedded in the BSC core contract.

There is a large cost exposure relating to the on-street supplemental agreements of between £20m to £35m. This number is based on experience gained from the Princes Street on-street agreement and the likely incremental cost of full depth road reconstruction on all on-street sections. It should be noted that the cost estimate is an unmitigated risk and it will be essential that appropriate controls are in place to reduce this exposure. These mitigations should also include appropriate policing of design assumptions given the design issues experienced on Princes Street. It will be essential that any agreement for on-street agreements do not result in over engineered construction.

Because of the commercial position being taken by BSC and the lack of a further agreed on-street supplemental agreement, a confirmed programme for on-street working cannot be confirmed for the New Year.

The governance around the signing of the supplemental agreement will require the Tram Project Board, or a sub committee of the Tram Project Board, to authorise **tie Ltd** to sign the agreements. It is envisaged that a presentation will be given to the Board/sub committee detailing the full sensitivities, risks and cost exposure around the supplemental agreement prior to authorisation. CEC Finance will conduct a robust examination of the assumptions underpinning the cost estimates.

The table below provides a summary of the Dispute Resolution Process (DRP).

The approximate value of each DRP is noted below (though it should be noted that the value of a DRP principle may significantly differ from the value of the DRP dispute itself). The only item currently in DRP is Russell Road retaining wall. The adjudicators result is awaited on the 24<sup>th</sup> December 2009. The delta between the **tie Ltd's** view and the BSC view is £3.9m. The adjudicators result for Carrick Knowe and Gogarburn Bridge has now been passed to Richard Keen QC for review. A post mortem has been conducted on this result to enable **tie Ltd** to strengthen the drafting of adjudicator's questions in future DRP's and make best use of the lessons learned.

The main commercial issues outstanding are agreement on Extension of Time 2, the Supplemental Agreement and agreement on the commercial programme.

As part of the settlement of Extension of Time 1, BSC have agreed a timetable through to the end of February to produce a revised commercially agreed programme. In addition to the commitment on programme, BSC also agreed to start work on a number of sites along the route. Using Haymarket Viaduct as an example, BSC have commenced work at this site but progress has been painfully slow and is a further example of lack of progress on the ground.



**BSC Dispute Summary**

Case Number	DRP Item	Status	Summary Description	tie view £k	BSC View £k	Delta £k	Outcome/ Financial Impact £k	Notes
4	3	C	Hilton Car Park	-	48.7	48.7	-	Adjudication was completed on this dispute on 13th October 2009 in favour of tie
5	4	S	Extension of Time 1 - True and proper valuation of tie change order 1 in connection with change from v26 to v31 of the programme	1,823.1	6,987.6	5,164.5	3,500.0	tie had made a provision of £2.5m in their latest cost estimates for EOT1. This was eventually settled without the need to go to adjudication at £3.5m
6a	5a	C	Gogarburn Bridge		313.1	313.1	313.1	The adjudicator found in favour of BSC on this issue and rejected tie's argument on the principle of Design development on this issue. The final amount of the settlement is yet to be agreed.
6b	5b	C	Carrickknowe Bridge	71.8	339.0	267.3	267.3	The adjudicator found in favour of BSC on this issue and rejected tie's argument on the principle of Design development on this issue. The final amount of the settlement is yet to be agreed.
6c	5c	A	Russell Road retaining wall	701.5	4,597.8	3,896.4		Awaiting adjudicator's decision on the 24 <sup>th</sup> December.
	5f	S	Haymarket Viaduct	25.3	399.7	374.4	185.0	The true and proper entitlement to additional payment as a consequence of the matters particularised in Infracore notification of tie change number 112 dated 16 September 2008. This item was settled at £185k.
23	13	S	Depot Drainage	436.9	1,318.2	881.3	130.0	This dispute concerns the works associated with the external drainage at the depot. Infracore seeks to be reimbursed for all the works identified as differences between BDDI drawings and the IFC drawings on a measured basis. This item was settled at £130k
				<b>3,058.5</b>	<b>14,004.1</b>	<b>10,945.7</b>	<b>4,395.4</b>	

O=Outgoing  
P=Proposed  
I=Incoming  
C=Complete  
S=Settled  
A= Awaiting Adjudication





5 Communications Update (Presented by Isabell Reid)

**Come into town campaign**

The Come into Town campaign focussed on alerting local residents, businesses, commuters and visitors to Edinburgh to the fact that buses were returning to Princes Street on Sunday 29 November. It also advised travellers of the location of bus stops on Princes Street and promoted the Council’s annual parking promotion. Feedback from such an advertising campaign can be difficult; however we have initial indications that the programme of activity was successful.

A dedicated page on the Council’s website was created to provide information on bus routes, as well as the full list of streets included within the parking promotion. From Monday 23 November the site [www.edinburgh.gov.uk/comeintotown](http://www.edinburgh.gov.uk/comeintotown) has received 4375 unique visitors and overall 5184 page hits which shows that people are returning to the site for information. The statistics show that on average visitors are browsing the page for around a minute per visit which is quite high with around 141 people viewing the page each day.

Further statistics show that almost half of those visiting the site typed the full url in directly, rather than going through a referral site such as google, coming from a partner website or clicking through from online advertising. While anecdotal, this gives an indication that the offline marketing campaign (including radio and newspaper advertising, billboards at key gateways and the pocket guide) was successful in generating traffic to the site.

The Council has also had some positive results from advertising with The Times online. Pages where we advertised had 50,164 page impressions with 53 direct click-throughs to the comeintotown page. This may appear low but is actually acceptable for a campaign of this nature where there is no call-to-action as such, for example selling a product.

**Media coverage on Princes Street re-opening**

As well as leading on the above campaign, much of the communications effort around the actual re-opening of Princes Street was handled by the Council Communications Service.

The agreement had been that **tie ltd** would lead with the media on the completion of Princes Street tramworks. However, whilst **tie ltd** did arrange for a media call on-site on the Friday prior to the opening and had a team of people on-site on the night, there was no written communications plan shared with the Council to provide clarity regarding media arrangements. The majority of media information provided by **tie ltd** prior to the re-opening weekend was focussed on their sponsorship of elements of the Edinburgh’s Christmas programme.

There was no contingency plan put in place by **tie ltd** to deal with a possible delay or cancellation of the re-opening. The Council Communications Service therefore prepared an outline contingency comms plan which included details such as where to base ourselves if the commitment to re-open could not be met, press releases to cover three potential scenarios and communications officers (including a member of the webteam) on standby.

The main press release about the successful re-opening of Princes Street was prepared in advance by the Council’s Communications Service and included comments from Councillor





Dawe, Richard Jeffrey, Ron Hewitt and Bill Campbell. This release, with any appropriate modifications, was to be released by the Council on-call media officer early on Sunday morning, following a phone-call from **tie ltd** comms staff on-site. However, despite several efforts to contact **tie ltd** communications staff circa 5am to ensure the release could be issued, **tie ltd** comms team did not respond. Shortly after 5am Council communications staff were able to obtain an accurate update from the Council's Tram Team on-site, regarding the short delay to the re-opening.

Without any communication with the Council's communications team, **tie ltd** issued their own statement to media outlets at 08.30 in response to two media enquiries. However, the positive coverage obtained resulted primarily from the joint release which was issued at 9am. BBC online has earlier posted content using only **tie ltd's** statement but this was successfully amended to include Councillor Dawe's comments after an intervention from the Council's comms team.

The Council comms team also organised for STV to air a follow-up piece on the following Monday night with Councillor Mackenzie, from the Council's traffic control room, showing that traffic was flowing well on Princes Street.

On this occasion, there was a distinct lack of a one team approach and a lack of good communications planning and contingency planning (a gap which the Council filled.) This left the project exposed and the need for good joined up working between the two comms teams needs to be strengthened, if the project is not to be put at risk in the future.

**New Edinburgh Trams Fact Booklet and DVD**

A new tram fact booklet has now been produced and was sent out last week to key stakeholders, MSP's and Councillors. It houses key facts and figures about the construction and running of the tram network and has been collated due to the increasing levels of public interest in the project. Much of this interest is a result of the tram mock-up exhibit, which has now been situated at several key locations across the city. The DVD has now been shown at a number of key conferences and public meetings over the last few months and the feedback we have received has been overwhelmingly positive.

**Tram mock-up public display**

The tram mock up is now situated outside the Gyle shopping centre and is open between 12pm – 5pm. While situated outside the busy shopping centre, so far it has received 4,000 visitors taking the opportunity to have a look inside. It has seen an impressive 135,000 visitors walk though its doors since February this year. The mock-up will close on 23 December for the festive break and will move on to Edinburgh Airport in the New Year.

**Public Information**

A 4 x 1.5 metre vinyl sign providing public information about trams has been installed close to the location of the airport terminal tramstop, on Burnside road. This is on the major route out of the airport and close to the airport taxi rank, giving high throughput visibility.







Several metal roundel signs have been delivered for the West End Village and will soon be installed. These signs will help give greater visibility to the West End Village during current and upcoming tramworks.

Plans are underway to install information panels in Princes Mall shopping centre at Waverley Station. We have forwarded artwork to Princes Mall and are awaiting their approval prior to installation.

**Tramformers visits**

Tramformer visits have taken place, with 16 schools now involved. Two children from each of the schools visited either the mock up tram followed by a tour of the track laying process, or the bridge works at Carrick Knowe. Follow up work will be done with the children to help them to share their experience with the rest of the school.

We are continuing to work with Scottish Businesses in Communities. As part of this we have participated in careers workshops at both Broughton and Craigmoynton High School for Primary 7 classes from the catchment area. More workshops are planned in the near future.

**Cyclists' safety**

With Princes Street now re-opened, and the tram tracks in place, advice has been sent out to cyclists and cycling groups to ensure they follow appropriate steps to ensure they are safe when riding near tram tracks. These include how to ride alongside tracks, crossing the tracks and using road junctions appropriately.

tie ltd have also funded a practical training session for cyclists. This training was organised and carried out by independent specialist instructors, and was aimed at training and advising cyclists on how to ride safely in the vicinity of tram lines. Training was held on Sunday 13 December, where cyclists were able to cycle in a coned-off traffic-free part of Princes Street as well as in the traffic.

**January Tramworks**

The lack of an approved programme for the on-street works means that it is difficult to plan an effective communications strategy for the New Year.

There is a real need for a plan for communicating the new tramworks to the wider travelling public and to clearly communicate them alongside the council's major roadworks eg at the Scottish Parliament, major utility works e.g. at Abbeyhill. The sheer scale of the roadworks affecting travellers across Edinburgh at the start of the New Year make such a plan absolutely essential, and as soon as this can be determined, the Council will work with colleagues at tie ltd to develop an appropriate communications plan.

**6 Tram Legal Agreements with Forth Ports (Presented by Dave Anderson)**

Further meetings have taken place with Forth Ports (FP) to conclude the tram legal agreements. FP are reluctant to sign the agreement until there is a formal conclusion with the overall Section 75 agreement for the whole of redevelopment of Leith Docks. The Director of City Development has met with Charles Hammond and followed up that meeting with a letter on 9 December, confirming the Council's position. A copy of that letter is attached as Appendix 3. A response is still awaited.



**7 Statutory Council Approvals and Consents (Presented by Andy Conway)**

The table below provides an updated summary position on all the necessary approvals required from the Council for the tram project. A further detailed breakdown is attached as Appendix 1.

CEC Statutory Council Approvals and Consents	Total Number of Submissions	Total number of Approvals	% Complete
Prior Approval	64	61	95%
Full Planning Permission	10	9	90%
Listed Building Consent	11	11	100%
Scheduled Monument Consent	1	1	100%
Building Warrant	18	15	83%
Technical Approvals (including Structures, Roads and Drainage)	125	107	86%
<b>Total</b>	<b>229</b>	<b>204</b>	<b>89%</b>

There remains a significant amount of conditioned matters that need to be addressed as part of the statutory Planning and Technical approvals and pressure is being placed on **tie ltd** to produce a delivery programme that demonstrates how these issues can be dealt with.

**8 Building Fixings (Presented by Colin Mackenzie)**

Good progress continues in connection with the Building Fixings work stream. This week, a further four cases in the Sheriff Court were disposed of in a manner satisfactory to the Council and **tie ltd**. Three of these were going to be defended at a full evidential hearing, but consent by letter or completion of the standard agreement has obviated the hearings. A fifth case has been continued into early January so that the owners can sign the standard agreement and return it to the Council. That court case will then be concluded.

One case has been put on the shelf to allow negotiations to be concluded. It is likely that agreement on all points will be reached, with the Council making only minor concessions to the standard agreement. Four owners in the same building are proving somewhat difficult, having suggested an unacceptable change to the insurance clause. This has been rejected by the Council in agreement with **tie ltd** and it remains to be seen what the Sheriff will do with the Summary Applications at the hearing on 17 December. None of these owners has lodged written defences; nor have they appeared in court. It would be open to the Sheriff to grant the Order sought by the Council.



**9 Certificate of Appropriate Alternative Development (CAAD)  
(Presented by Andy Conway)**

Since the last report, further meetings have taken place with Corporate Property and Planning to manage the risk that are associated with the CAAD applications.

Appendix 3 details the plots which are expected to be subject to CAAD applications aimed at confirming development value. There are currently two live CAAD applications; the CALA application in Leith and the BAM application at Haymarket Yards.

**CALA**

This application passed the deemed date for the issue of a negative certificate and CALA have lodged an appeal against that deemed certificate with the Scottish Ministers represented by the Reporters Office. There is a short timescale in which to lodge detailed papers to support their position. Once CALA have lodged papers, the Council will be given an opportunity to comment. The appeal will then proceed by written submissions, a hearing, or a full public enquiry as considered appropriate.

**BAM**

This was formerly HBG who developed an office building at Haymarket yards. An application has been lodged and the Council, as acquiring authority, has instructed Dundas and Wilson to prepare a response to the application to be lodged with the Planning department. The Council has also questioned BAM's title to compensation and to apply for the CAAD.

**10 Planned Future Tram Council Reports (Presented by Andy Conway)**

The table below identifies the planned tram related Council reports. It is proposed that this will remain as a standing item on the IPG.

		2009		2010												
		Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
1	Update on governance - conclusion of Stage 1															
2	DRP progress, including costs and programme implications															
3	Lothian Buses transfer proposals															
4	Lothian Buses transfer - approval of final arrangements															
5	Remuneration Strategy (for all Council companies) - does this include TEL and tie ltd															
6	Tram Traffic Regulation Orders															
7	Magdala area traffic calming															
8	Consultation on the future pedestrianisation of Princes St, plus update on the success of winter festivals embargo															



**Key**

Full Council
Transport, Infrastructure and Environment Committee
Policy and Strategy
Tram Sub Committee

**11 Future use of Princes Street as an Events Arena (Presented by Andy Conway)**

The re-introduction of buses, taxis and cycles on Princes Street, following the installation of the tram infrastructure, and its handover to the Council, provides the opportunity to discuss future uses of the street, particularly with regard to marches and events.

The Edinburgh Tram Acts stipulates three occasions when Princes Street will be closed for a specific events, which include:

- Hogmanay Street Party
- Festival Cavalcade
- Festival Fireworks.

The Council is already starting to receive applications for future events e.g. the 10km run in May 2010, and to ensure the Edinburgh continues to attract these large scale events, it is recommended that a clear decision is made on the following:

**When do the tram related restrictions apply, and;**

**What alternative locations and arrangements can be put in place?**

A decision now, on the future use of Princes Street as an event arena, prior to the introduction of trams would be prudent. This has to be taken forward, following full consultation with Lothian and Borders Police and TEL and it should be discussed with the Councillors, to ensure that they support the restrictions. If the decision is not to allow events, marches etc. this should be conveyed to the Council Events team and other relevant sections, for them to pass on to people making initial enquiries about its use.

**List of Appendices:**

- 1 Statutory Council Approvals – Tables 1 and 2
- 2 Statutory Council Approvals – Tracker
- 3 Letter to Forth Ports from the Director of City Development
- 4 Certificate of Appropriate Alternative Development (CAAD)



## Statutory Council Approvals Summary Table

CEC Statutory Council Approvals and Consents	Total Number of Submissions	Total number of Approvals	% Complete
Prior Approval	64	61	95%
Full Planning Permission	10	9	90%
Listed Building Consent	11	11	100%
Scheduled Monument Consent	1	1	100%
Building Warrant	18	15	83%
Technical Approvals (including Structures, Roads and Drainage)	125	107	86%
<b>Total</b>	<b>229</b>	<b>204</b>	<b>89%</b>

**Table 1 - Planning and Building Warrant Approvals**

CURRENT STATUS	Sub Totals	Prior Approval	Full Planning Permission	Listed Building Consent	Scheduled Monument Consent	Building Warrant
Informal consultation not started	3	1	0	0	0	1
Informal consultation started	3	2	0	0	0	1
Application submitted	1	0	1	0	0	1
Approval granted	97	61	9	11	1	15
<b>GRAND TOTAL and Sub Totals</b>	<b>104</b>	<b>64</b>	<b>10</b>	<b>11</b>	<b>1</b>	<b>18</b>
<b>% Complete</b>	<b>93%</b>	<b>95%</b>	<b>90%</b>	<b>100%</b>	<b>100%</b>	<b>83%</b>

**Table 2 - Roads & Structures Technical Approvals**

CURRENT STATUS	Sub Totals	CEC Technical Approval	*Network Rail Form A	*SW Drainage Outfall Consent	*SNH	*BAA Approval	Roads Construction Consent
TA delayed due to recent change	0	0	0	0	0	0	0
Issued for informal consultation	0	0	0	0	0	0	0
Issued for Technical Approval	16	11	0	4		1	1
Technical Approval Granted	107	84	12	10	1	0	
Not Yet Due	2	2	0	0	0	0	1
Delay	0	0	0	0	0	0	0
<b>GRAND TOTAL and Sub Totals</b>	<b>125</b>	<b>97</b>	<b>12</b>	<b>14</b>	<b>1</b>	<b>1</b>	<b>1</b>
<b>% Complete</b>	<b>86%</b>	<b>86%</b>	<b>100%</b>	<b>71%</b>	<b>100%</b>	<b>0%</b>	<b>0%</b>

\* These consents are not CEC's responsibility, but for completeness they have been included as they are required to allow construction to commence.



**APPENDIX 2**

Prior Approvals Status					Approved by CEC	IFC	
Section	Batch	CEC Delay	SDS/ TIE/ BSC Delay	Activity ID	Current forecast (live)	v31	Notes
1	1/02a			Ocean Terminal Bypass Road	TBC		Forth Port require the design to be changed to accommodate their floorplan of a proposed future building. Agreed with Director of City Development on 13/10/09.
5A	5/05c			29 Roseburn Street – JB McLean (Building Warrant)			Pending Consideration. BSC to provide information to SDS. Target date TBC
	5/23			Redesign of Retaining Wall/Roseburn Street Bridge			Application on hold. tie to provide 'as built' details
5C	5/30			Tram Stop Gogarburn	11/09/2008	11/09/2008	Awaiting concept design comments from tie.
7	7/29a			Airport Kiosk – Full PP			Following meeting 15/08 change is on hold. tie to confirm final scope of works
	7/29b			Airport Kiosk – Building Warrant			SDS to confirm with CEC scope of Building Warrant

## Technical Approvals Status - Structures

					Approved by CEC	IFC	
Section		CEC Delay	SDS/TIE/BSC Delay	Activity ID	Current forecast (live)	v31	Notes
5A				S22B Balgreen Road NR Access Bridge	?	16/01/2009	SDS has responded to NR concerns. NR is re-evaluating its points following clarification and will provide a response. Potential meeting required dependent on NR response.

## Technical Approvals Status - Roads &amp; Drainage

					Approved by CEC	IFC	
Section		CEC Delay	SDS/TIE/BSC Delay	Activity ID	Current forecast (live)	v31	Notes
1A3	Roads & Drainage				28/08/2009	21/01/2009	TA ongoing
1C1	Roads & Drainage						On hold awaiting drainage design/revised RSA
3A	Roads & Drainage				31/10/09	?	Progressing application in accordance with priority list
3B	Roads & Drainage				31/10/09	?	Progressing application in accordance with priority list
3C	Roads & Drainage				31/10/09	?	Progressing application in accordance with priority list

Charles Hammond  
Forth Ports plc  
1 Prince of Wales Dock  
Edinburgh  
EH6 7DX

Date 9 December 2009

Our Ref SS/1/AC

Your Ref

Corr No

Dear Charles

### **Edinburgh Tram**

Further to our meeting on Tuesday 7 December at which we discussed section 75 related issues and the outstanding tram agreement, I have, as promised, attached a copy of the latest revision of the draft Minute of Variation between the City of Edinburgh Council and Forth Ports plc regarding the tram works.

I would like to acknowledge the good work our respective teams and colleagues from **tie ltd** have been doing to resolve the outstanding matters. The attached draft sets out the current version of the draft Minute of Variation. I am grateful that a genuine willingness on the part of all those involved has enabled a good number of issues to be resolved. I hope that we can quickly deal with the remaining issues which are detailed below.

### **The Minute of Variation between the City of Edinburgh Council and Forth Ports plc**

The most significant outstanding issue within the Minute of Variation relates to Forth Ports' requirement to link the tram agreement to the Planning Application for the development at The Harbour at Leith Docks. At the request of Forth Ports, Clause 8.2a has been inserted into the agreement. This places on the Council conditions that are difficult for us to agree in the current form.

The purpose of the Agreement is to set out the terms under which the tram will be delivered and to describe the obligations of the respective parties. While we both indicated during our discussion a wish to conclude the Section 75 agreement and made good progress towards this, the agreement has yet to be finalised. It would clearly be helpful to resolve this as soon as possible. In the meantime, it is important to recognise that the agreement referred to in Clause 8.2a is a separate matter.



Although there is a mutual wish to conclude the Section 75 agreement, including reference in it to Clause 8.2a, could theoretically allow Forth Ports to withhold payment indefinitely by choosing not to sign the agreement. I believe that Clause 10, as currently drafted, should provide sufficient comfort in this respect and that Clause 8.2a could, therefore, be deleted. However, if you feel that there is any part of Clause 10 that does not sufficiently protect your position, please let me know.

There are also a number of minor points on the current draft and I have noted these below.

- Clause 5.5 – it had previously been agreed with Malcolm Butchart that Forth Ports would pursue the land acquisition/road adoption and construction costs associated with relocating the Scottish Government gates.
- Clause 8.2b – I do not feel it is reasonable to delay payment of all monies until the commencement of tram services between Ocean Terminal and Newhaven Harbour. I would like to suggest a staged payment mechanism that could deal with the possibility of curtailment at Ocean Terminal taking account of the local impacts of that outcome.

### **Land/Adoption Agreement**

I understand that, on behalf of **tie ltd**, Dundas & Wilson have just issued the draft land/adoption agreement to Morag McNeil for comments including drawings that identify the areas of land transfer and future road adoption previously discussed with Ian Kerr.

There has also been discussion between **tie ltd**, Forth Ports and the Council about how best to conclude the purchase of the strip of land on the ADM Milling site and the possibility of including this within the land transfer deal. My preference would be to carry out a separate land purchase by mutual agreement with the value based upon its rental income, in perpetuity.

If this area were to be included in the land/adoption agreement, in which land is to be transferred free of cost to the Council, a different value would be derived, based on compensation for loss of rental income from now until the date of land transfers, at which time the income would be lost to Forth Ports. The value of this particular land transfer agreement was a part of Forth Ports contribution to the scheme, under the terms of the original Section 75 agreement.

### **BSC Licence to construct the tram infrastructure**

The licence to allow BSC to construct the tram infrastructure is currently with Forth Ports for signature. I would appreciate it if that could be concluded as soon as possible, in order to remove risks from the tram project.

A speedy conclusion to our negotiations will ensure that there is no unnecessary delay to tram construction works. I am sure that you will concur that this is in the interests of all parties concerned.

Please do not hesitate to contact me if you require further information.

Yours sincerely



**Dave Anderson**  
**Director of City Development**

Enc Draft Minute of Variation between The City of Edinburgh Council and Forth Ports  
PLC

## APPENDIX 4

### COMPULSORY ACQUISITION

### RISKS TO LAND BUDGET FROM PLANNING ISSUES

LOCATION	OWNERSHIP	PLOT NO	AREA (m2)	DV VALUE	PLANNING BASIS	PLANNING/ CAAD RISK	RISK VALUE	COST RISK	ADDITIONAL FEES	ADDITIONAL INTEREST	TOTAL AT RISK	BUDGET RISK
FORTH PORTS	CALA	47										
"	CALA	48	566	£10,000	Transport Reservation/ amenity	residential	£1,500,000	£250,000	£30,000	£130,356	£1,910,356	£1,900,356
"	CEC	49	310		Transport Reservation/ amenity	residential	incl in above					
HAYMARKET YARDS	Haymarket SPV Ltd	516	206		Transport Reservation/ amenity	office/ business	£0					
"	Haymarket Yards Ltd	517	1056	£28,750	Transport Reservation/ amenity	office/ business	£250,000	£75,000	£5,000	£21,726	£351,726	£322,976
"	The Institute of Chartered Accountants of Scotland, 1 unknown owner, & Begbies Traynor (as liquidator for Braemar Homes Ltd in respect of 21 m2)	518	1000	£50,000	Transport Reservation/ amenity	office/ business	£250,000	£75,000	£5,000	£21,726	£351,726	£301,726
"	CEC & Jones Lang LaSalle Ltd as agents for the Universities Superannuation Scheme Ltd	523	1245	£45,104	Transport Reservation/ amenity	office/ business	£250,000	£75,000	£5,000	£21,726	£351,726	£306,622
GYLE	CEC & Jones Lang LaSalle Ltd as agents for the Universities Superannuation Scheme Ltd	478	1966	£57,500	Transport Reservation/ amenity	retail	£1,000,000	£50,000	£20,000	£86,904	£1,156,904	£1,099,404

## APPENDIX 4

LOCATION	OWNERSHIP	PLOT NO	AREA (m2)	DV VALUE	PLANNING BASIS	PLANNING/ CAAD RISK	RISK VALUE	COST RISK	ADDITIONAL FEES	ADDITIONAL INTEREST	TOTAL AT RISK	BUDGET RISK
"	CEC	479	111	£1,150	Transport Reservation/ amenity	retail	£60,000	£50,000	£1,200	£5,214	£116,414	£115,264
"	CEC & Jones Lang LaSalle Ltd as agents for the Universities Superannuation Scheme Ltd	480	69		Transport Reservation/ amenity	retail	£35,000	£50,000	£700	£3,041	£88,742	£88,742
"	CEC	481	5619	£33,580	Transport Reservation/ amenity	retail	£3,000,000	£50,000	£60,000	£260,712	£3,370,712	£3,337,132
"	CEC & Jones Lang LaSalle Ltd as agents for the Universities Superannuation Scheme Ltd	482	1196		Transport Reservation/ amenity	retail	£600,000	£50,000	£12,000	£52,142	£714,142	£714,142
"	CEC	483	3152	£14,407	Transport Reservation/ amenity	retail	£1,600,000	£50,000	£32,000	£139,046	£1,821,046	£1,806,639
AIRPORT/A8	CEC	495	505	£7,266	hope value	hope value	£100,000	£50,000	£2,000	£8,690	£160,690	£153,424
"	Haslemere Estates as agents for Meadowfield Developments Ltd	496	10724	£153,841	hope value	hope value	£450,000	£50,000	£9,000	£39,106	£548,107	£394,266
"	CEC	497	25817	£213,645	hope value	hope value	£1,100,000	£50,000	£22,000	£95,594	£1,267,594	£1,053,949
"	Haslemere Estates as agents for Meadowfield Developments Ltd	259	14551	£86,430	hope value	hope value	£600,000	£50,000	£12,000	£52,142	£714,142	£627,712
"	BAA plc, Edinburgh Airport Ltd, & Scottish Airports Ltd	499	41805	£779,174	hope value	hope value	£2,100,000	£50,000	£42,000	£182,498	£2,374,498	£1,595,324

## APPENDIX 4

LOCATION	OWNERSHIP	PLOT NO	AREA (m2)	DV VALUE	PLANNING BASIS	PLANNING/ CAAD RISK	RISK VALUE	COST RISK	ADDITIONAL FEES	ADDITIONAL INTEREST	TOTAL AT RISK	BUDGET RISK
"	Haslemere Estates as agents for Meadowfield Developments Ltd	498	16016	-	hope value BAA?	hope value	£650,000	£50,000	£13,000	£56,487	£769,488	£769,488
"	Pinnacle Towers Ltd, Royal Bank of Scotland plc	273	4418	£115,000	hope value	hope value	£250,000	£50,000	£5,000	£21,726	£326,726	£211,726
"	Haslemere Estates as agents for Meadowfield Developments Ltd	289	1188	£69,000	hope value	hope value	£120,000	£50,000	£2,400	£10,428.48	£182,828	£113,828
"	New Ingliston Ltd	291	8046	£175,000	hope value	hope value	£850,000	£50,000	£17,000	£73,868.40	£990,868	£815,868
"	New Ingliston Ltd	303	10064	£150,000	hope value	hope value	£1,100,000	£50,000	£22,000	£95,594.40	£1,267,594	£1,117,594
"	New Ingliston Ltd	312	17728	£180,000	hope value	hope value	£1,800,000	£50,000	£36,000	£156,427.20	£2,042,427	£1,862,427
"	New Ingliston Ltd	318	5616	£100,000	hope value	hope value	£600,000	£50,000	£12,000	£52,142.40	£714,142	£614,142
"	FSH Airport (Edinburgh) Services Ltd	322	29477	£550,000	hope value	hope value	£3,000,000	£50,000	£60,000	£260,712.00	£3,370,712	£2,820,712
"		327	3360	£75,000	hope value	hope value	£450,000	£50,000	£9,000	£39,106.80	£548,107	£473,107
		<b>TOTALS</b>		<b>£2,894,847</b>			<b>£21,715,000</b>	<b>£1,475,000</b>	<b>£434,300</b>	<b>£1,887,120</b>	<b>£25,511,420</b>	<b>£22,616,573</b>

**Notes**

- 1 No allowances for Injurious Affection, Severance or change in Planning
- 2 No offset for betterment

FORTH  
PORTS  
HAYMARKET  
YARDS

GYLE

AIRPORT/A8

RISK OF ADVERSE CAAD REQUIRING REVISED  
BASIS OF VALUATION  
RISK OF ADVERSE CAAD REQUIRING REVISED  
BASIS OF VALUATION

RISK FROM CHANGING PLANNING REQUIREMENTS FOR SHOPPING CENTRES PERMITTING ADDITIONAL DEVELOPMENT  
THEREFORE INCREASED VALUATION  
ONGOING PLANNING DISCUSSIONS INCREASING HOPE VALUE PLUS CHANGE OF PLANNING CONSENT WITHIN 10 YEAR PERIOD  
ALLOWS CLAIMANT TO REVISIT CLAIM

CALA CAAD being  
considered  
BAM CAAD being  
considered

GENERAL

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

CLAIMS  
LODGED

WEST	
CRAIGS	£8,500,000
NIL	£11,500,000
BAM	£ 2,000,000
CALA	£1,500,000