



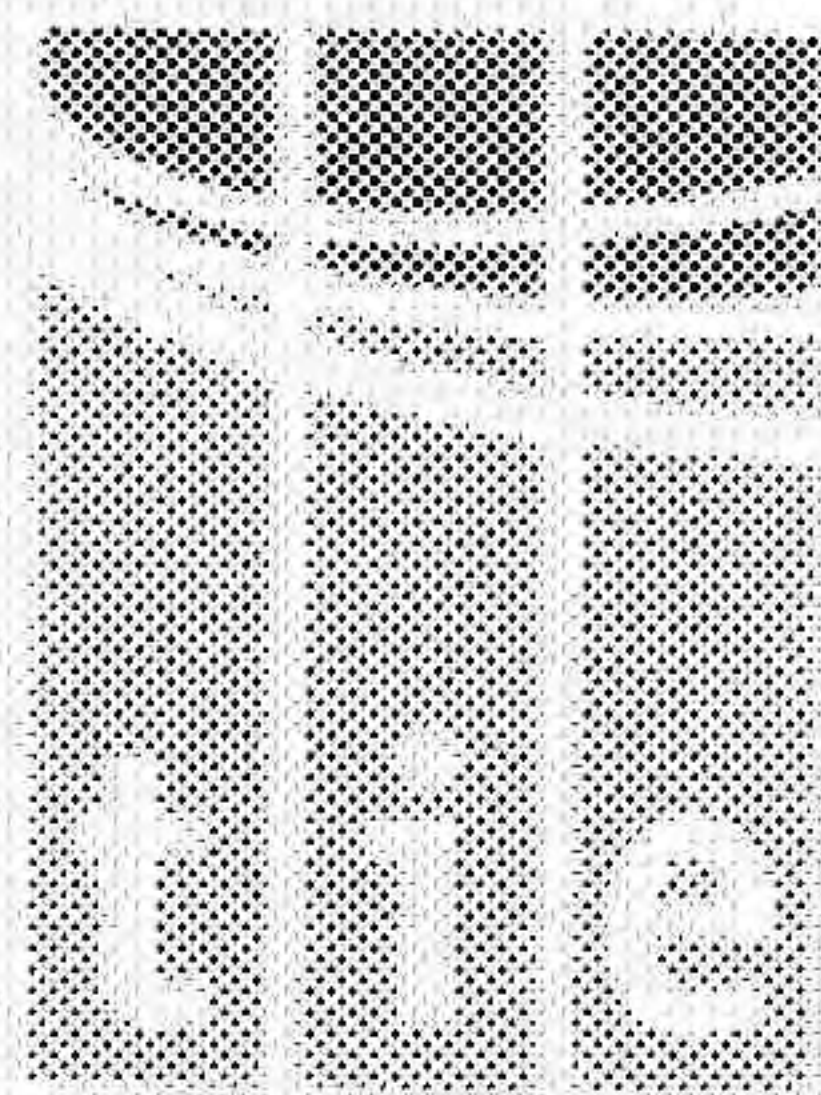
TRAM PROJECT BOARD

TIE LIMITED

19th DECEMBER 2005

09.00-11.00

VERITY HOUSE, 19 HAYMARKET YARDS, EDINBURGH



Agenda for Tram Project Board Meeting 4

Date: Monday 19th December 2005

Time: 9.00am – 11.00am

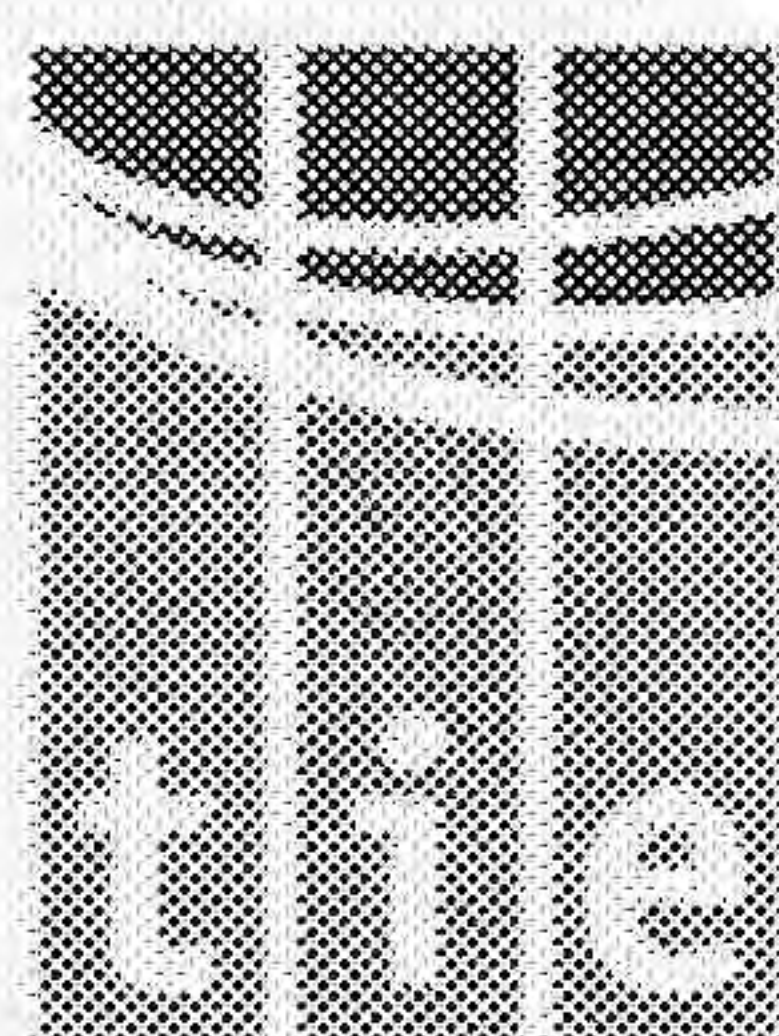
Venue: The Boardroom, tie offices Verity House, Haymarket Yards

Meeting Invitees	Gavin Gemmell (GG), Michael Howell (MH), Ian Kendall (IK), Graeme Bissett (GB) Barry Cross (BC) Andrew Holmes (AH) Keith Rimmer (KR) Damian Sharp (DS) Neil Renilson (NR) James Papps (JP) Andy Wood (AW) David Mackay (DM) Willie Gallagher (WG)	tie Limited CEC CEC Scottish Exec. TEL PUK Transdev TEL TEL
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Item	Description	Paper	Resp	Timing
1.	Apologies – Willie Gallagher (WG)			09:00
2.	Previous Minutes / Matters Arising			
3.	Tram Project Director's Report - Key issues and decisions required	Yes	IK	
4.	Parliamentary Process Update	Verbal	BC	
5.	Tram Progress Report - Highlights and questions	Yes	IK	
6.	TEL Business Plan and Financial Model - Progress	Verbal	NR	
7.	Any Other Business			
8.	Date of Next Meeting – 23 rd January 2006, tie offices 09.00-11.00			



PREVIOUS MINUTES / MATTERS ARISING



tie Limited

Minutes of the Edinburgh Tram Project Board – meeting no 3.

Date: Tuesday 22nd November 2005

Time: 09.00am – 11.00am

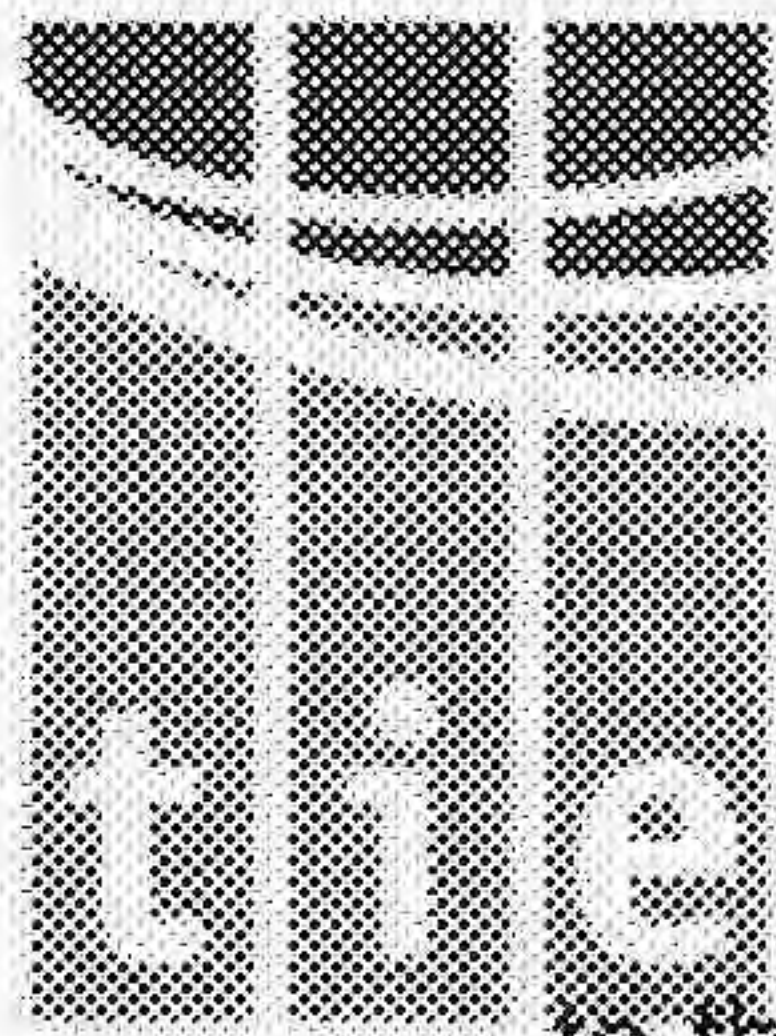
Venue: The Boardroom, tie's offices
Verity House, Haymarket Yards

For brevity, the attendees will be referred to in the minutes by the abbreviation listed below. The Board itself will be referred to as the 'TPB', to distinguish it from the tie Board.

In attendance	Gavin Gemmell – for tie Ltd	GG
	Damian Sharp – Scottish Executive	DS
	Keith Rimmer - CEC	KR
	Michael Howell – for tie Ltd	MH
	Ian Kendall – for tie Ltd (Tram Project)	IK/TPD
	Graeme Bissett – for tie Ltd	GB
	Barry Cross – for tie Ltd	BC
	David MacKay - TEL	DMcK
	William Gallagher - TEL	WG
	Neil Renilson – TEL / Lothian Buses	NR
	James Papps – for Partnerships UK	JP
	Jim Harries - for Transdev UK	JH
	Clare Norman – for tie Ltd	CN
Apologies	Andrew Holmes – for CEC	AH
	Andy Wood – for Transdev UK	AW
Circulation	As above	

ACTION BY

1. **Apologies**
 - As Above
2. **Previous Minute / Matters Arising**
 - It is noted the attendance at last month's meeting was incorrectly documented on the minutes as Keith Rimmer attended the meeting and Willie Gallagher was absent. MH
 - Keith Rimmer raised an issue with the wording of point 5 which read "the key importance of signal priority for the tram was highlighted to CEC representative" – the sentence should have been pointed after highlighted, excluding "to CEC representative". Keith pointed out that this was raised KR



to the TPB not to the CEC. KR stressed that a Network balance needed to be reached. Signal Priority and a balanced solution are not mutually exclusive and the CEC will be insistent with this.

Note

3. Tram Project Director's Report – Key issues and decisions required.

3.1 TPB Project Governance

- IK asks the TPB to note the TEL Board (following on from the TPB on 22nd November at 11.00am) will be considering the way in which TEL/tie Board and the TPB will work together. Suggested that TEL will hold the mantle of control and ownership post financial close although other options are being explored. This proposal will be issued to the TPB as soon as it has been through the formal process.
- WG and DMcK both have some issues with the TEL financial report. Suggested by Gavin Gemmell that he will attend the TEL meeting to help resolve any issues that have arisen.
- IK stresses that the additional costs of the two-company structure which is suggested in the proposal, including all of the potential TEL running costs are not currently included within the Tram budget. The purpose of the proposals are to develop the most efficient project structure.

IK

WF/DMcK

GG

IK

3.2 Funding / Delay

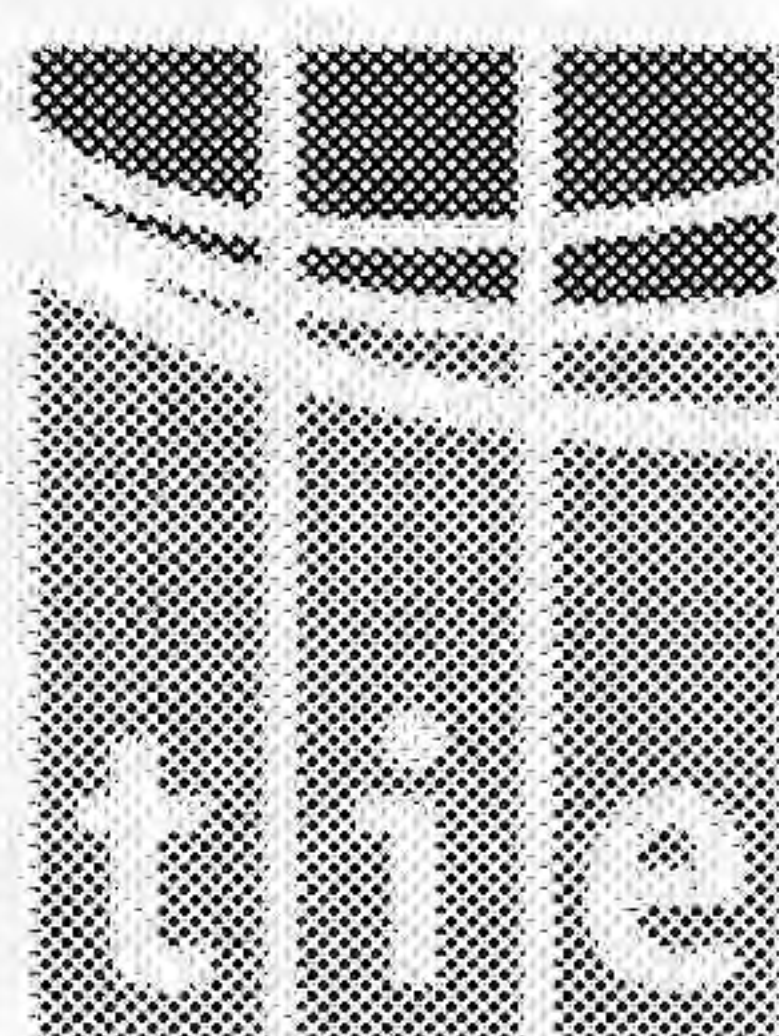
- Damian Sharp is to send a letter to Keith Rimmer regarding the agreement between the Scot Exec and the CEC to continue the funding to the Parliamentary Process.
- Funding is material to the procurement process. It is paramount to tenderers that funding availability will be there. IK wants to ensure that CEC and Scot Exec are aware of this and highlights to the TPB that the INFRACO and MUDFA markets are made up of substantially the same organisations. In order to gain the best response from the market the funding needs to be guaranteed.
- DS and Keith Rimmer to meet this week. Damian Sharp notes that in a recent meeting with Andrew Holmes that there is a recognition that meetings need to be organised before Christmas to move forward with funding.

DS - action

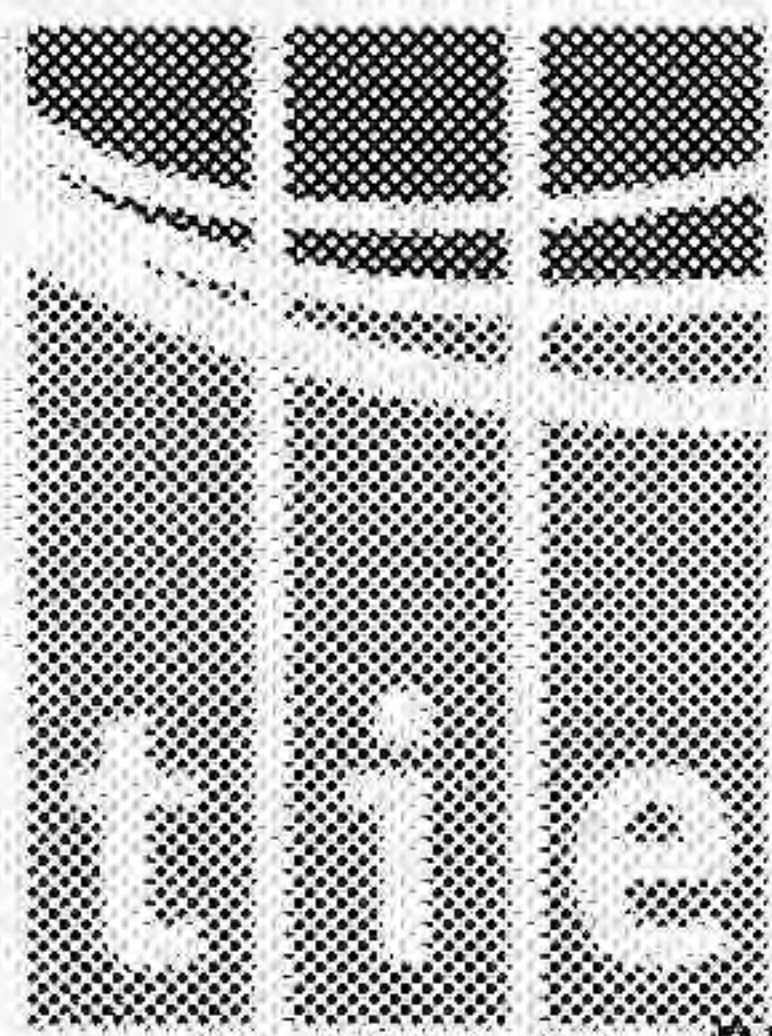
IK

DS/KR – action

DS/AH – action



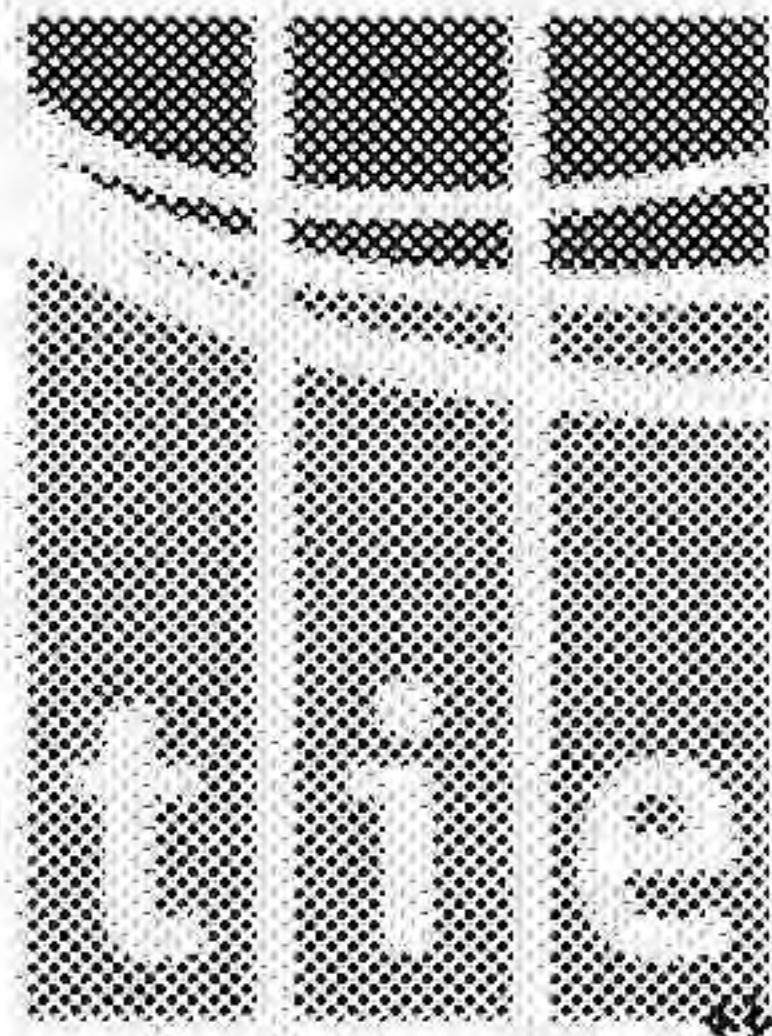
- IK stresses that it is important that an agreement between the Scottish Executive and CEC regarding funding for the Utilities diversion package needs to be in place prior to the release of tenders. If the money is not available by the programmed tendering for MUDFA in January then the tender will not be released. This will have a knock on effect with all programming. CEC and Scot Exec need to be in agreement to fund. DS
- JP in general support of strategy but worries about the funding as the procurement of MUDFA, INFRACO and TRAMCO are fundamental to the success of the project. Note
- MH suggests that the issue is that there is not a clear view of how TEL will manage the trams. Questions whether this is a concern and will this yield delay in Scottish Executive and CEC resulting in an impact on the process of MUDFA and the other tenders. MH
- NR hopes there will be a decision on indexation before Christmas. DS suggests that the political will is to decide this before Christmas. NR hopes that that if this is the case then the outcome of the indexing will give the tenders more hope of what can be achieved. Note
- IK states that contractors will respond to tie and that tie need funding in place to represent the project. Indexing is fundamental. BC notes that legal advice unanimous across the board in terms of Scope and powers in the bill. GG notes that indexing will help. IK/BC/GG
- NR raises question of delays to the project and the cost that delays may have. IK emphatic to point out that the tram project is being developed with an overlapping series of programmes. The full project cost is between £634 - £714 million. **The issue of costs is not a constant money issue but an issue of inflation.** Graeme Bissett adds that we will spend more if delayed. Note
- TPB agreed that the funding issue has been raised and is that the TPD has highlighted and explained why funding is critical to having a successful tendering process. It is agreed that TPD's position is that there will be no tender release unless and until funding is committed. IK



subject to contract.

3.3 Market Consultation – INFRACO/ TRAMCO

- JP asks whether the MUDFA contract is to be signed in April. IK confirms that if funding is available then MUDFA will be awarded post Royal-Assent and tenders for INFRACO and TRAMCO will be released. Tie are looking at the decision to initiate utilities between beginning of April to October. IK
Note
- TPD recommends selection of TRAMCO bidder in October 2006 to streamline tendering process. TPB approve this subject to date. IK
Note
- TPD has accelerated release of TRAMCO OJEU to end-November 2005 to short-list TRAMCO bidders prior to receipt of INFRACO PQQ's. Note that there are a number of companies that have expressed interest in both MUDFA and INFRACO. Note
- DMcK asks whether tie are planning to begin utilities prior to the project becoming definite. IK confirms this and states that the Scot Exec and CEC are happy with this and tie are in the process of fine tuning at the moment. IK
- MH states that if we don't start Utilities diversions in the middle of the year then it will delay the project and cost both time and money. IK confirms to the TPB that it is tie's intention to begin Utilities diversions following the end of the festival at the beginning of September 2006 in order to minimise disruption to the Transport Network. IK
Note
- TPD notes that the final business case is due in September/October 2006 which will produce the final decisions. Note
WG wants to ensure that the Board are in alignment with JRC outputs prior to utilities work commencing. TPD stresses that any of the utility diversions are to be made between Haymarket and Ocean terminal. The focus of attention with utilities will be in this area. This area is vital to the Tram project success, without this section the Tram Network won't exist. The risk of abortive works is very low. WG
IK
Note
- IK notes that tie are moving forward with JRC analysis with known phasing options. NR notes that TEL see that by focussing utility diversion attention between Ocean Terminal and Haymarket even without the results of the JRC being known IK

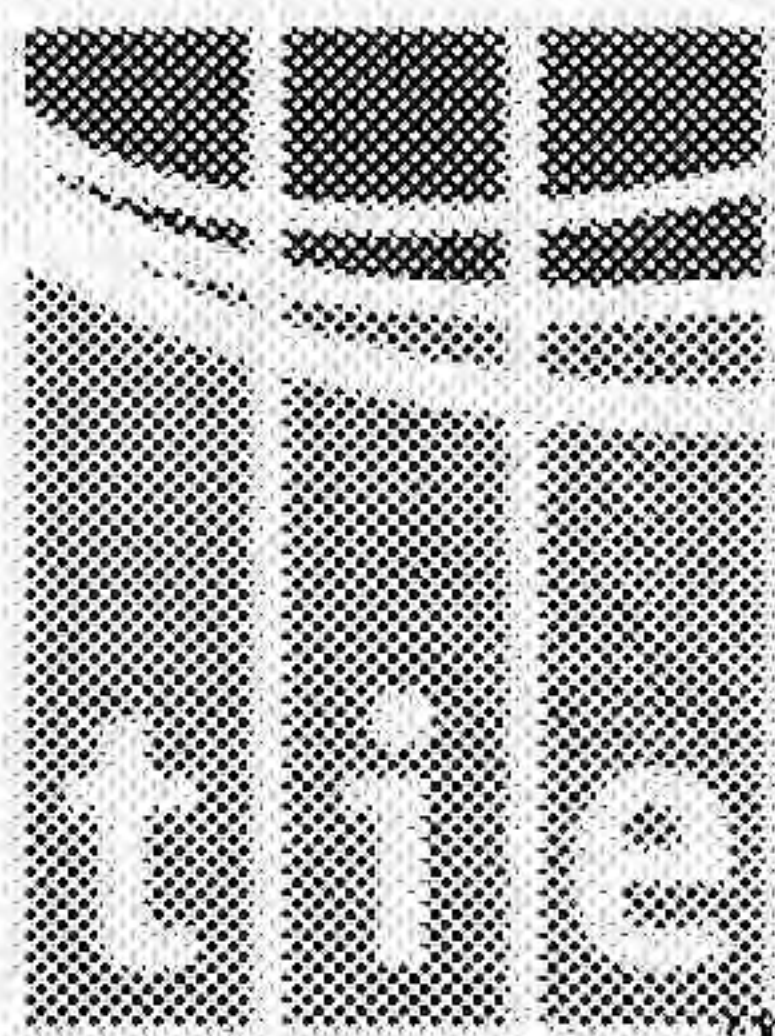


then the outcome will yield no waste.

- DS and KR believe that the Scot Exec and CEC will not allow the award of MUDFA if JRC don't see Network being there, however, TPB recognises the importance of the JRC findings to the project but agrees that these results should be weighed up in respect of all aspects of the project. DS TPB
- IK notes that it would be prudent to raise a change request to see if JRC modelling could be speeded up. This is agreed by TPB IK
- BC notes that the two Parliamentary Committees are on the brink of accepting the Bills for ETL1 & 2 on the basis of all the work that has gone forward so far. JRC is one part of the project as a whole. BC

3.4 MUDFA DEVELOPMENT

- TPD notes that if the Scot Exec and the CEC come to a funding agreement (3.2) then the release date for MUDFA is 9th January 2006. IK
- TPD would like to avoid a situation with the procurement strategy where INFRACO PQQ submissions are required before we know TRAMCO. TPD to advise INFRACO's. IK
- IK advises TPB that there is a no fault termination clause in all contracts to date. IK
- TPD recommends that there is incentive sharing between MUDFA and tie and that in event of full demobilisation tie will wish to pay costs. The TPB is made aware that the Procurement Strategy requires tie to undertake substantial works prior to financial close in 2007. IK
- The Outline Business case that is being produced for the first quarter of 2006 will show the operational viability. This is not the same as the Financial Business case which is due including the JRC output in October 2006. Note
- When the utilities works are being carried out associated private connections will also be included, which will allow tie to modify utilities owned by land owners at the same time to avoid having to rework later. IK
- IK advises the TPB that there are around 1000-1500 items of utility diversions within the tram programme. Note
- TPB understands the features that the TPD would like included in the MUDFA contract as explained in 3.4 and above and are in agreement with them. TPB



- IK asks that the CEC sterilise tram path for all new utility works immediately legal powers are achieved for either ETL1 or ETL2. KR not aware of any utilities added in path of tram, but notes that we don't have definite plan of tram path yet. CEC agree to ensure no utilities works are in the path once legal powers are available.

IK

KR

3.5 JRC and Financial Modelling

IK

- TPD notes that JRC modelling is a critical input into the alternative TEL business plans, risk management strategy and financing agreements with Scot Exec and CEC. JRC will be directed from TELs perspective and TPDs perspective to derive options that give optimum solution.
- MH notes that high quality bus was apparently preferred by DfT in Leeds and that tie should look at all options available to Edinburgh. The concept of a new bus design should be explored, however a report was commissioned at the beginning of the tram project which suggested that Trams were the better option for Edinburgh. TPD to develop.
- Tie, through Transdev, are looking at several different approaches to the removal of buses on the tram routes, with no's stretching between 15 to 60. MH stresses to NR that there are a number of approaches being explored.
- TPD advises to all that further work continues regarding all aspects of 3.5.

IK

IK

Note

IK

3.6 Safety Plan & Issues

- MH notes that he has had an informal conversation with the Chairman of the tie board regarding this and it had been decided that this matter should be discussed formally at the tie Board meeting.

MH

3.7 Tram Project Accommodation

- TPD inform the TPB that the idea of Satellite offices to be used for specific aspects of the project is being discussed. IK working on this with impacts on tie. Action approved by TPB.

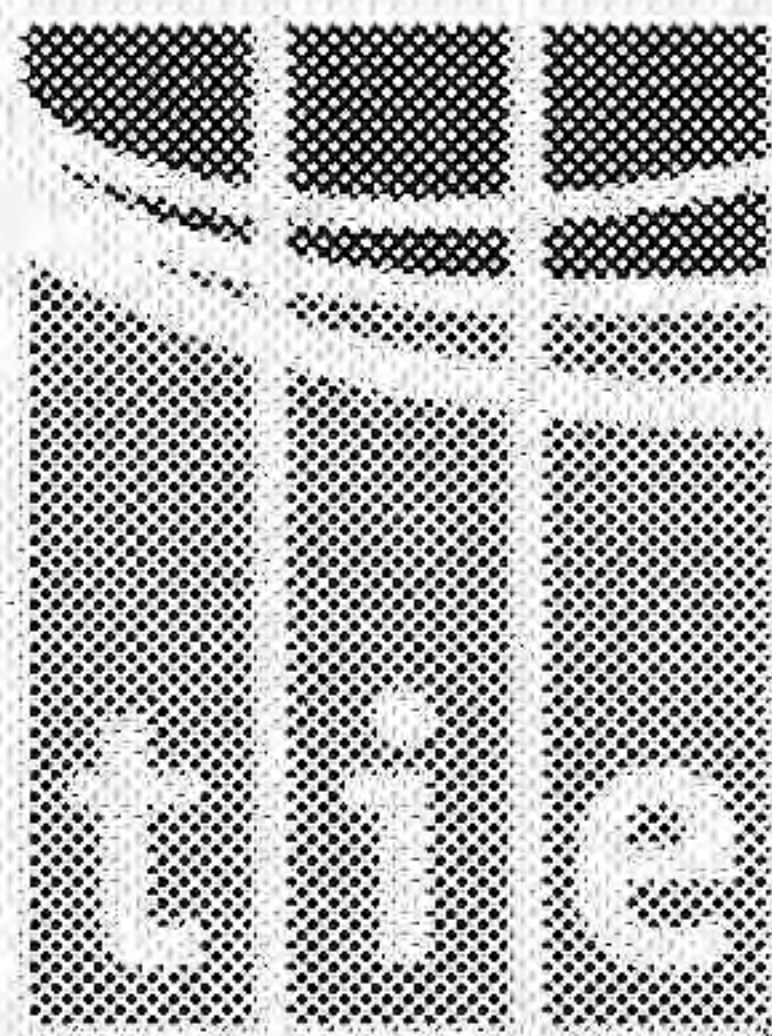
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3.8 Change Controls / Design Manual

- The TPB has been informed that the CEC Design Manual deadline is 19th December 2005.
- CR014 – Wireless traction – TPB approved TPD's

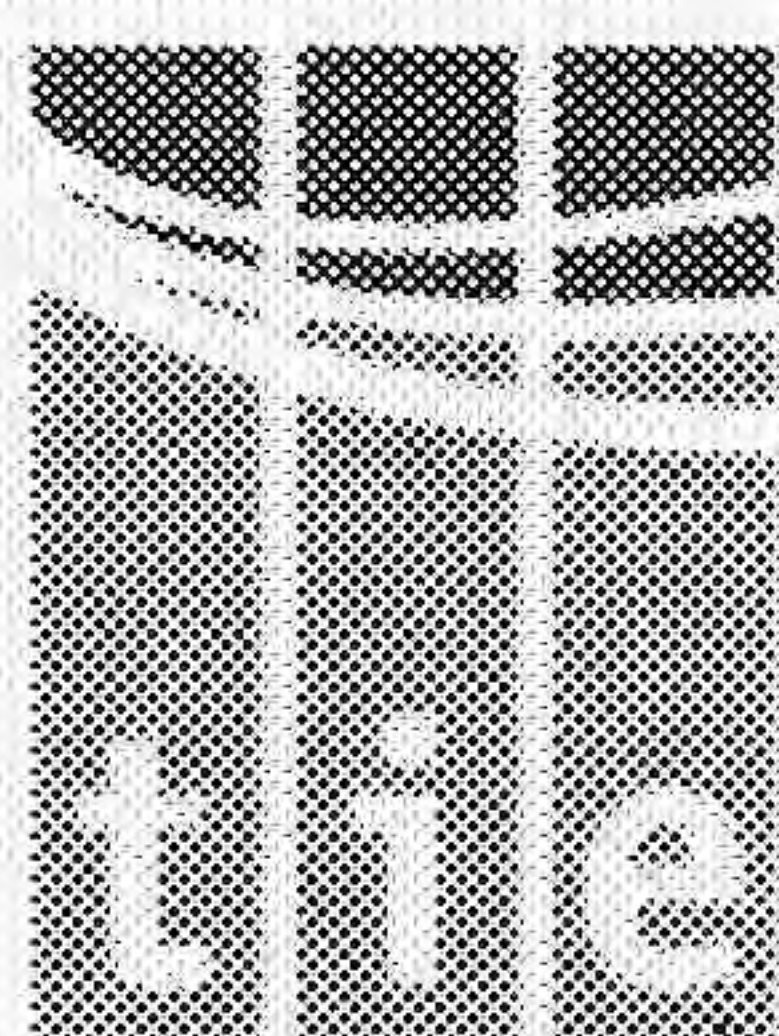
IK

IK



recommendation to remove wireless traction from further consideration.

- CR009 – “bikes on trams” - TPB did not accept the report and would like it to be resubmitted after further work. IK
- 4. Tram Progress Report – Highlights and questions**
- Change Requests 18,19,23 (p17) have gained approval from the TPB but IK clarifies to the TPB that they need to get approval of Highway Authority. By creating Change Requests the Tram Project begins a process to identify the need to develop a comprehensive design that works. IK
 - NR concurs that this is the ideal that the Tram Project want to achieve but that it need to be proven to provide a satisfactory balanced solution. TPD notes that the starting point is the Change Requests. NR
 - DMcK gains confirmation from TPD that the outline business case that is on p7 is being brought together by Stuart McGarrity, Graeme Bissett and PWC. IK notes that inclusion of information from TEL is needed. DMcK/ IK
 - p6 (4.3) – Tram Implementation- GB agree with the need for re-phasing. DS asks why no bills for £4m come across his desk. KR and GB to check this. KR mentions that he is not aware of any delays in payments. NR
GB/DS
KR/GB - action
- 5. Governance a) Finalised Tram Project Board Remit
b) TEL and Service Integration**
- TEL is going to discuss this and TPB will come back to this. IK
- 6. Principle Workstreams Update**
- Workstream with SDS – tie is trying to sort out any problems with this. IK
 - JRC is in place.
 - TSS providing an adequate level of support.
- 7. Parliamentary Process Update**
- Parliamentary hearings are moving into the final stages and due to resolve of objectors and withdrawals the hearings have been shorter. Note
 - This week the PBU will begin looking at outstanding issues such as modelling and finance BC



Issues. BC inform the TPB that tie have high hopes of closing down these issues and that tie are on target at the moment.

- ETL2 goes to the floor early next year and ETL1 towards the end of the first quarter.
- DS mentions that he needs to know any Bill amendment issues so he can keep the Scottish Executive informed so that no amendments to bills are passed that need to be changed later.

BC

DS

8. Change Controls – Status of Register

a) Change Request 14 – Wire Free Traction

b) Change Request 9 – Cycles on Trams

- Dealt with in 3.8

9. TEL Business Plan and Financial Model – Progress

- NR states that this was discussed at the last TEL board. Note there is a need to get better handle of what the business plan is being created for. View at last TEL board was not to take the whole of ETL1 & 2 forward in business case so to focus JRC on this. DMcK and WG more comfortable with this.
- BC mentions that the parliament commissioned audit of the process by ARUP and that gave them confidence to move forward.
GB states that the overall business case document is intended to support tendering. We need to accept that the overall business case will contain a lot of what we have at the moment. Better that we are working toward something next autumn. Tie are not going to have definitive information in January/February in the OBC (overall Business case) as this based upon the business case that is planned for the end of the year.
- TPD informs the TBP that we can't get a solution until we have done the work. We clearly have capital budget restraints and there is a lot of work to do with TEL/Lothian buses and JRC. We won't find optimum answer until the work is done. JRC needs to do a complete job with ETL1 & 2 and look at all solutions.
- WG states that he is nervous of starting on-street construction works until he has seen the business case from JRC.

NR

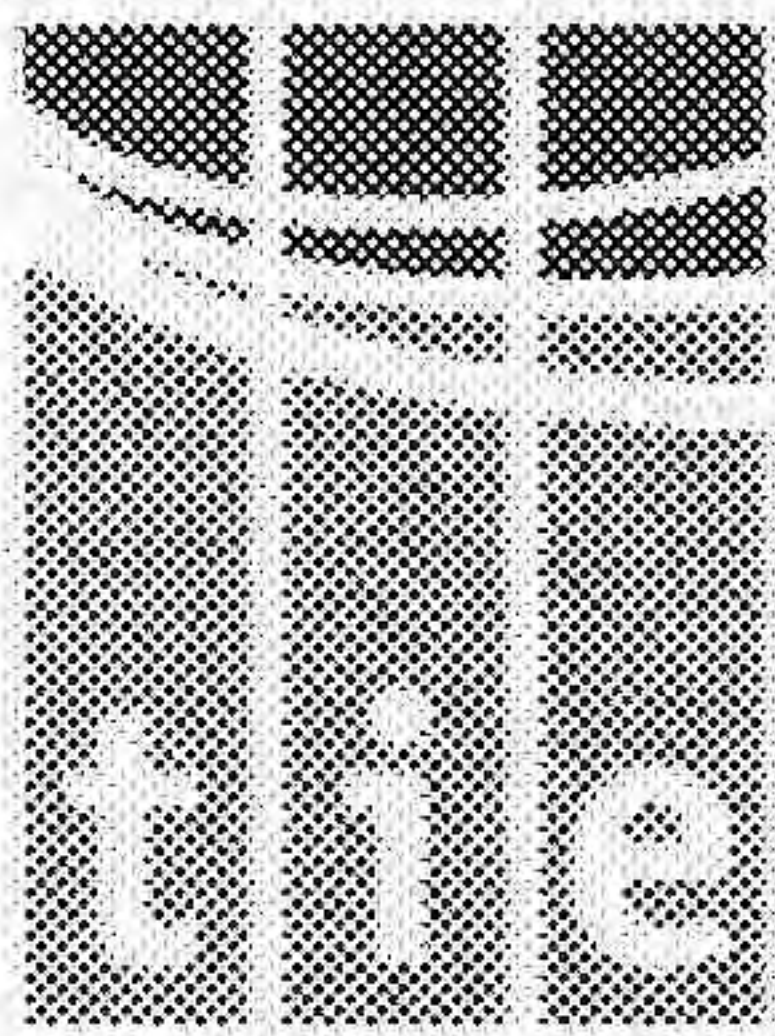
Note

GB

Note

IK

Note



- GB notes that it would be helpful if tie could show information on sections. We won't have this from JRC but we can gain comfort in sections. JH agrees that a report on Ocean Terminal to the Airport can be done provided all of the TPB agree on basis that this will be done.
- Damian Sharp is concerned that TEL's business plan is stalled. He wants TEL to have some development so that when JRC results come out they can react quickly. NR notes that TEL is not stalled but would like to see "what ifs" for Granton and the Airport to Ocean terminal.

GB/JH

NR

10. Funding and Business Case Matters

a) Supplementary Progress Report for PBU

b) Outline Business Case – format and content

c) PFI Feasibility Study

- The Progress Report to PBU was good and MH confirms that tie will not talk to the press without talking to CEC.
- Tie are attempting maintain pace on the joint venture with EDI
- GB notes that tie are unable to move forward as have had no response from CEC legal team. Keith Rimmer is going to take this up with the Council Solicitor.

MH

JK

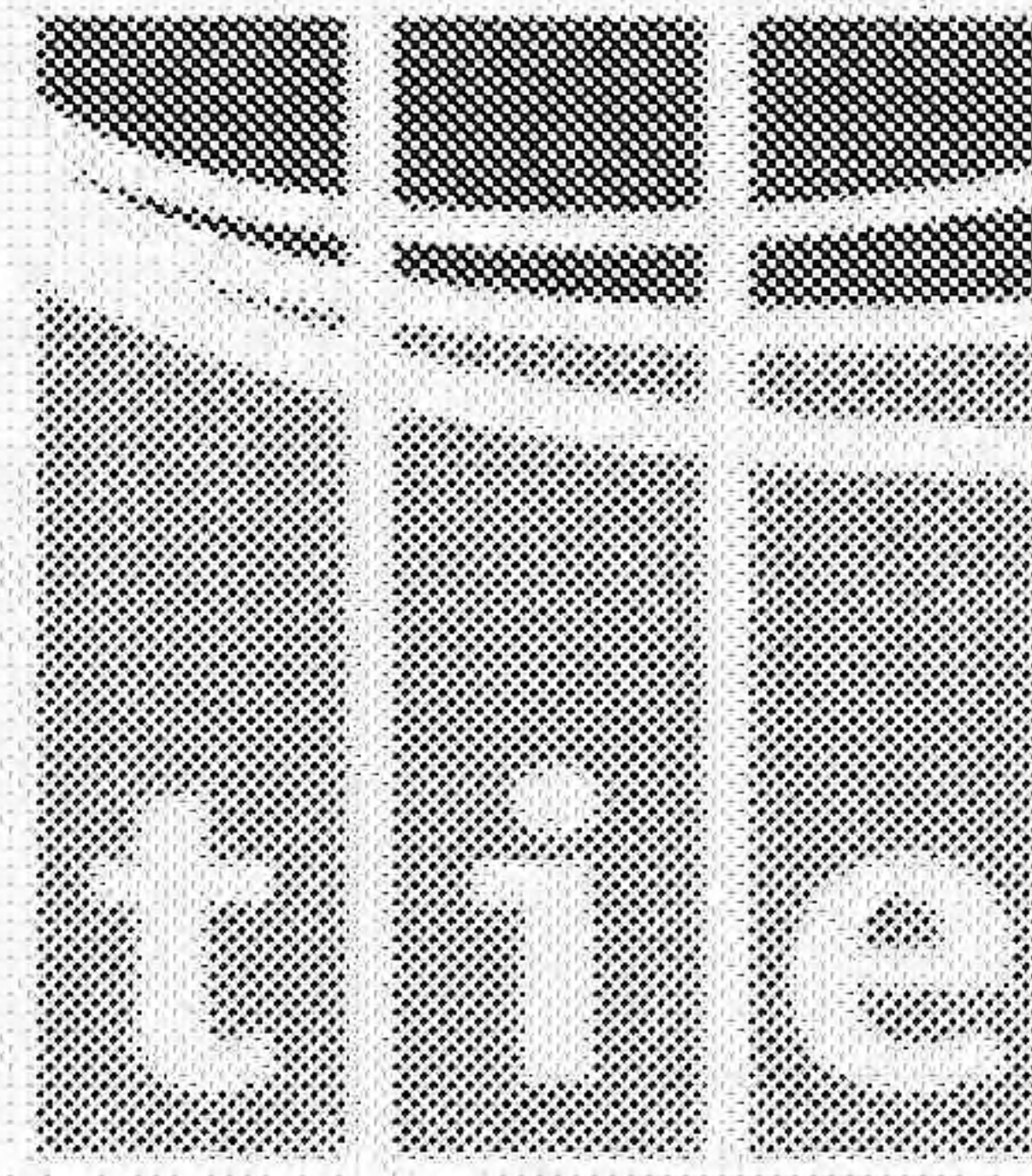
GB

Action – Keith Rimmer

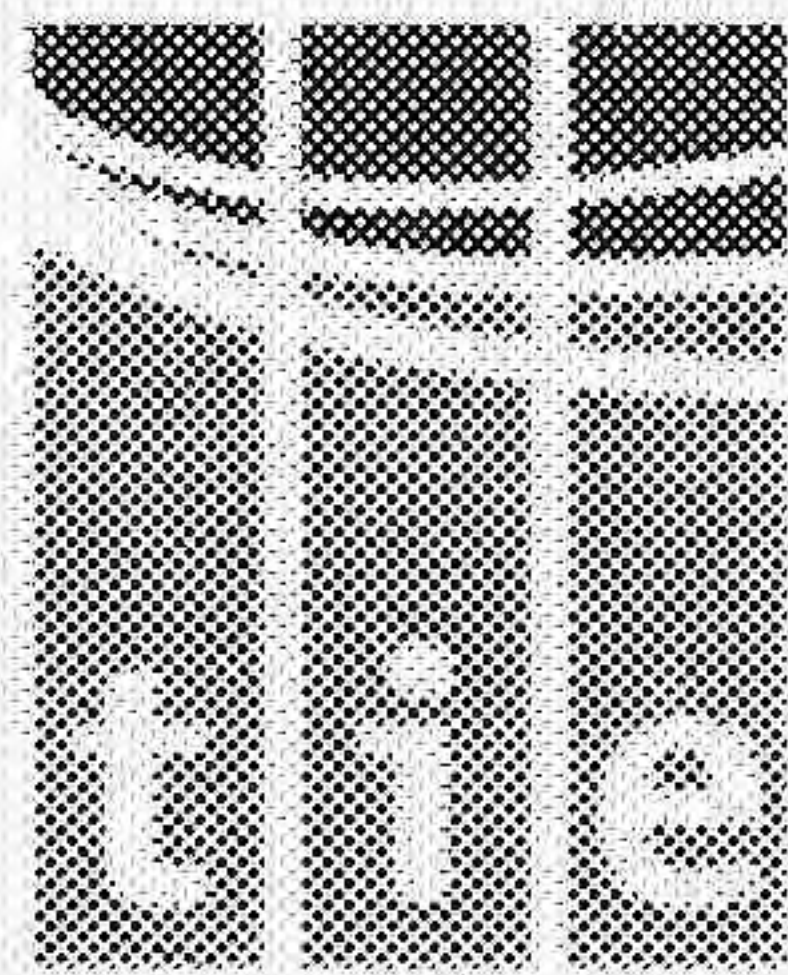
11. AOB

- Nothing recorded.

12. Next meeting will take place at Verity House on 19th December at 9.00am



**TRAM PROJECT DIRECTOR'S REPORT – KEY ISSUES AND
DECISIONS REQUIRED**



Tram Project Board: December 2005

Project Director – Trams (TPD) Executive Summary

1. TPB Project Governance:

TPB is to note that a paper substantially outlining a recommended way forward was presented to the TEL Board on the 22nd November, 2005. No substantive discussions took place and have not since taken place.

TPB is requested to review the Tram Project Governance TEL & Service Integration full discussion paper and having reviewed it to provide views to the TPD at the meeting. The discussion paper is released to Board Members as part of this pack.

Matters arising:

Included for discussion is a paper which Outline Business Plan For TEL paper which puts some structure around the overall TEL business planning process.

Matters arising:

Both of the above referenced papers are tie papers following consultation with TEL.

The TPB should note that joint office accommodation is being written into the 2006/2007 tie budget for co-location of TEL with tie.

tie is adding the costs of developing the business plans for TEL into its 2006/7 budget.

2. Funding/Delay:

TPB is to note that continued funding of the tram project parliamentary process has been verbally agreed between the SE and the CEC awaits confirmation. This is in the sum of £1.61m. This confirmation was to transfer from Implementation Budget rather than "new money" which was expected.

TPB is to note that funding commitments for the tram project are required to secure the best response from the market for MUDFA, INFRACO and TRAMCO. TPB is to note that the INFRACO and MUDFA markets are made up of substantially the same organisations.

SE advises that detailed meetings between CEC and itself are programmed to occur over the next few weeks. SE also advises that final determination of indexation and CEC commitments will be made known and every effort to resolve before Christmas will be made.

TPB should request details of progress made by the SE/CEC.

TPD seeks authority to progress in line with the attached paper "Tram Project Funding" in preparation of contract documentation.

2005?
A

Approved: _____

TPD advises that the delivery of the utilities agreement is on the critical path for the project and that delays in reaching agreement beyond the anticipated tender release date of 9th January, 2005 will add cost to the total project value at a rate of circa £3.5m per month.

TPD advises that the proposal included in the "Tram Project Funding" paper is to delay in-street utility diversions works until end-September and that a three month overall programme delay will arise. TPD will look to minimise this but TPB should note that 3 months equates to increased costs of £10.5m. Acceleration costs in the same order are achievable within MUDFA to hold the Scheduled Opening Date.

There is little to no doubt that restrictions on public utilities diversions will have to be minimised consistent with acceleration.

Approved: _____

3. PQO Results for MUDFA

tie has completed the evaluation of MUDFA bidders and is finalising its report.

The identities of the four pre-selected MUDFA bidders will be issued to the TPB.

Given a funding agreement between the SE and the CEC is achieved the tender release date for MUDFA is 9th January, 2006. *!!?*

TPB assistance with Scottish Power may be requested – to be advised at the meeting.

4. OJEU for Infraco:

The OJEU for the Infraco will be released on 19th December, 2005. *was it?*

5. JRC and Financial Modelling:

JRC modelling is a critical input into the alternative TEL business plans, risk management strategy and financing agreements with SE and CEC.

TPD has authorised a Change Request to accelerate the modelling production and awaits JRC confirmation. £110,000 has been added to the 2005/6 Implementation Budget in anticipation. *why*

TPB to authorise TPD to agree to acceleration costs of up to £250,000. *? was that?*

Approved:

All models will be capable of handling alternate modes permitting alternate service integration patterns.

TPB is advised that multiple sensitivities will be necessary for each phasing option.

TPB is advised that final selection of phasing and service pattern will not be undertaken until end-September, 2006 based upon affordability.

TPB is advised that alternative bus service patterns have been produced by Transdev which address for each of the three main project options alternative potential solutions for discussion. These alternatives are now ready for input into TEL and production of alternative TEL business plans.

TPD advises that further work continues.

6. Safety Plan & Issues:

TPD has initiated the development of Safety Management improvements.

TSS has been appointed as Planning Supervisor under CDM.

TPD has initiated development of the tie Corporate Safety System utilising TSS resource.

TPB is advised that there have been no LTI's on the tram project in the last month.

TPB is advised that tie has not resolved the issue of Safety Director and Executive Directors. tie remains outside of normal corporate practice for a project management firm. Revisions in the Corporate Safety System have been instructed in line with normal corporate practice in anticipation.

7. Tram Project Accommodation

TPD has initiated discussions with TSS to provide office accommodation in Buchanan House, Glasgow. This will facilitate improved communications between the tram project and Network Rail.

TPD has initiated discussions with SDS to facilitate co-located tie, TSS and SDS project staff outwith tie's corporate office in Haymarket. Adjacency is considered critical to the performance of the tram team.

A solution and Change Order(s) are being progressed and will be presented by TPD when a solution is determined. The target date for resolution of this is January 2006.

Approval from the TPB is requested for authority to vary the SDS agreement in the sum of up to £1.85m (all in costs) to require SDS to enter into a 5 year lease for space for up to 100 staff with tie to act as surety for the change.

SDS contract requires PB to mitigate demobilisation costs and this is the best risk managed position for tie to adopt.

Approved: _____

Tram Project Governance

TEL and service integration

Background

This note recommends a way of managing the relationships between the parties with an interest in the Tram project. The objective is to deliver a successful tram system as part of an outstanding integrated transport service for the people of Edinburgh. The challenge is to ensure that we move ahead on a basis of clear accountability, avoiding duplication of effort and ineffective decision-making processes. The note reflects discussions with a number of the principal parties since the last TEL Board meeting.

Nothing in this document should be interpreted as seeking to change CEC's primary role throughout the anticipated process as Transport Authority.

Summary

There are broadly three scenarios. The first involves a phased development of TEL's role and responsibilities and is the one most parties favour. In the period to Financial Close, TEL takes overall responsibility for three areas : 1) developing the optimum integrated service pattern ; 2) coordinating communications with stakeholders and media ; and 3) overseeing integration dialogue with third party operators. After Financial Close until commissioning, TEL is the principal contracting party for the system construction and vehicles contracts while tie acts as TEL's representative to project manage the delivery of the system.

The other two scenarios are : a) tie continues as the pivotal entity until commissioning in 2010, with TEL acting in an oversight capacity ; b) the tram activities and people within tie transfer to TEL at an early stage, tie has very limited further involvement as a company and TEL takes on tie's legal and contractual responsibilities. For various reasons explained in this note, neither of these options will be as effective as the phased development scenario.

If the phased approach is followed, it is necessary to preserve the newly-developed governance model while ensuring TEL is fully incorporated. From now on, TEL has substantive responsibilities for service integration and communications. The proposal is that TEL reports progress on its activities, through the TEL CEO, to the Tram Project Board until Financial Close. The TPB is the agreed forum for resolution of all project matters, with resort to the tie Board or CEC only exceptionally. TEL meetings are the appropriate forum for debate and resolution of integration related matters.

Structure and contents

The note sets out the following :

- 1) Summary of parties and roles
- 2) Project programme - main milestones as background to TEL development options
- 3) Objectives of the service integration process
- 4) Options for TEL development, focussed on the phased approach and including a review of the detailed steps necessary to execute this approach
- 5) Composition of the Boards of the main entities
- 6) Summary of other matters to be addressed
- 7) Summary of suggested next steps.

An Appendix sets out :

- 1) Detailed pros and cons of the tie- and TEL-centric options

1) Parties and existing structure

The parties are :

- City of Edinburgh Council
- Scottish Executive
- TEL
- Tie
- Lothian Buses
- Transdev/TETL

It is assumed that both Bills receive Royal Assent in Q1 2006.

The current governance model is :

- CEC - Sponsor, part-funder, ultimate decision-maker dependent upon funding agreement from SE
- SE - principal funder
- Tie Board - legally responsible for tram project delivery, under instruction from CEC
- Tram Project Board - responsible for overseeing execution of tram project delivery
- Tie Project Director and team - responsible for tram project management and delivery

2) Programme

The programme breaks down broadly as follows :

December 2003	Tram Bills submitted covering full scope of Lines 1 and 2, supported by estimated capital costs and advisor-led operational definition
May 2004	Transdev contracted to support operational development of tram
2004 - Oct 05	Limited service integration dialogue between the parties ; substantial progress on tram project parliamentary process, delivery team definition (including supporting contracts), some key funding aspects and forward programme definition ; project governance model redefined.
Oct 2005	New TEL Board formed
Nov 2005	Commencement of market consultation, system/vehicles tender definition and detailed updating of patronage/revenue estimates
Spring 2006	Royal Assent, both Bills
Summer 2006	Approval of OBC, tender issue
Autumn 2006	Capital cost clarity from response to tenders ; patronage / revenue clarity from JRC modelling work ; finalisation of TEL business plan including optimum service integration model ; scope and funding decisions to be taken
To mid 2007	Negotiation of preferred bids to Financial Close
2007-10	System construction, pre-commencement mobilisation, marketing and public communications
Mid 2010	New integrated system commences with operation of tram

This provides the background to the roles of the parties.

3) Objectives

In relation to the development of the integrated service model as part of the overall project, the following objectives need to be addressed effectively by the proposed governance and management arrangements :

- A. The existing tram project governance model has the approval of SE and the changes we are now discussing must augment its robustness
- B. We have not yet had an effective forum for assessing the full implications of service integration and this is now a critical path item on the way to final decisions on scope and funding of the tram network.
- C. Although some of the parties have specific commercial interests and responsibilities - notably LB and Transdev - it is necessary that these do not impede project progress. Any air of mistrust between the parties must be dispelled and a genuine collaborative approach established.
- D. The detailed patronage and revenue projections will be critical to ultimate scope and funding decisions. The projections must reflect the most up to date transport movement and demand information available, must involve all key parties in their development, must expose all key assumptions and their effects for evaluation and sensitivity testing, must incorporate an effective integrated ticketing model, must take account of the long-term nature of the project, and the output must pass an educated sanity check. In addition, the JRC model will form the basis of target revenues and costs under the DPOFA contract, which will require separate negotiation and agreement. These are challenges for the JRC modelling process which is being project managed by tie but which involves all relevant players with full transparency of inputs, process and outputs.
- E. Public communications are critical, especially during construction and there is a clear need for announcements and comment to be planned, professionally managed and coordinated as a "single voice"
- F. The structure must also be capable of evolution to suit the changing needs of the whole project and must make the best use of the experience and talent around the table in all phases.
- G. The structure must fully comply with the letter and spirit of competition law, transport legislation and all other relevant rules and regulations ; taxation must also be integral to planning.
- H. The requirements of both CEC and the Executive must be fully recognised throughout.

4) Options

There are many options and many have variants, but I would suggest there are three principal models :

- Scenario 1 - a staged migration of overall responsibility to TEL as the pivotal entity, but which requires TEL to play a substantive role from this point on.
- Scenario 2 - which leaves tie in full command of all aspects of the project and leaves TEL in an overseeing role only.
- Scenario 3 - transfer of all tie responsibilities, people and contractual arrangements to TEL, positioning TEL as the pivotal entity from this point on and removing tie (as a company) from the project

Scenario 1 is my recommended approach and is described in more detail below. It fulfils Objective A above. Diagrams showing the migration of roles are also provided.

I have provided less detail on the two alternative scenarios because I believe the flaws are fairly obvious. However, if people disagree we can try to develop the structure further. The analysis of these two options is in Appendix 1.

Scenario 1

The principal components are :

1. TEL immediately takes the role as Client for the production of rigorous analysis of the service integration options and the activity required to produce them. This fulfils Objective B above. TEL would have three principal responsibilities in the period to Financial Close :
 1. Ensuring that all parties - especially tie, Transdev and LB - engage constructively and provide all the information necessary to achieve a rigorous outcome to the design of the optimum integrated system. In particular, 1) that conflicting commercial interests are addressed and equitable solutions to conflict are implemented at the right time, dealing with Objective C above ; 2) that tie manages the JRC modelling process in such a way that all relevant involvement is achieved and that the detailed output objectives described under Objective D above are delivered ; and 3) that reasonable and rational positions are taken on operational matters such as junction priority and design. TEL is therefore in a position to manage the creative tension inherent in designing a "merger of two businesses", tram and bus.

- ii. Developing a communications plan for all stages of the project. In the short term, tie and LB may continue to handle tram specific and bus-specific communications respectively, but protocols are needed to ensure that a coordinated approach is adopted where common sense dictates that this is best. The role of CEC's corporate communications team needs to be considered. There is a school of thought that says the sooner we move to a fully integrated communications approach the better. A further consideration might be whether another TEL NXD appointment is merited for an individual with marketing & communications expertise. This fulfils Objective E.
 - iii. Managing contacts with third party transport operators to widen the scope of integration planning, in accordance with Competition law.
2. In late 2006, TEL plays a key role in the dialogue with CEC and SE to determine final scope and funding decisions. This will incorporate the optimum service integration models and the tendered capital costs / capital funding sources.
 3. TEL becomes fully acquainted with the terms of the construction and vehicle contracts and the SDS contract (collectively "the Systems Contracts") in preparation for step 6, when TEL becomes the legal contracting party. TEL will require to be credible for this role to the construction market.
 4. Tie continues to lead procurement of the tram Project, reporting through the governance structure currently in place. This includes execution of the procurement strategy, assessment of land and property acquisition activity, utility works and system design ; these responsibilities also require collaboration with other parties and cognisance of the emerging picture on capital costs and revenue modelling.
 5. TEL reports on its service integration responsibilities through the existing governance structure, to the Tram Project Board. This is possibly an undesirable complexity, but there must be a single forum where all issues are coordinated. In the period before Financial Close, the tie Board retains ultimate legal responsibility for the project delivery, reporting to its client CEC. This order of legal precedence must be recognised and accepted by all parties at the outset. In summary, through to Financial Close the ultimate legal responsibility continues to rest with the tie Board ; in the event that any dispute arises between TEL and tie, the Project Board is the obvious forum for rational debate. If there is a failure to reach agreement, the ultimate decision-maker is of course CEC, who will require to respond to the views of SE on most fundamental issues. That said, the close working relationships being developed should avoid any such impasse among the operating companies, but a mechanism is required in case.

6. As of Financial Close, the model becomes simpler. TEL becomes the Client for the Systems Contracts. TEL has overseen the preparation of the optimum service integration model and will have confirmed the construction scope, costs and funding. This forms the basis of TEL's cash flow planning and would be embodied in a TEL Business Plan at that point. Tie is simultaneously established, by contract between tie and TEL, as TEL's Client Representative, responsible to TEL for the Project management of construction. TEL is responsible to CEC for all aspects, rather than tie. The Project Board may need to be redesigned, but will now report to TEL and not tie.
7. TEL would take over the direction of LB and Board changes would be necessary to make this work properly, with LB effectively becoming an "operating division" of TEL during the construction period and thereafter once the Integrated system is operational. This will provide unified planning and operation of the LB bus network and will also facilitate pre-launch marketing and public communications. Ideally, this would be the point to transfer the shares of LB to TEL, supporting the "single economic entity" structure under TEL. However, the tax planning aspects require further work prior to transferring the shares and transfer may require to be delayed. Handling the changes to the Board and share ownership of LB requires sensitivity and further consideration is needed to get the planning right.
8. In accordance with the timetable envisaged in the DPOFA contract between tie and Transdev, the contract would novate from tie to TEL immediately prior to commencement of tram operations. It may be appropriate to novate the DPOFA as at Financial Close, again an issue which should be further addressed.
9. In the period following operational commencement, tie would have a continuing role in reliability testing, claims resolution and maintenance management. This can be executed as agent for TEL and longer term, TEL could take over the maintenance management role and indeed all aspects of integrated system operation.
10. An additional dimension which may require dialogue between TEL and CEC is the extent to which strategic transport matters are delegated from CEC to TEL over the next five years. For example, it might be conceptually appropriate to have TEL responsible for all mode integration matters, related schemes such as Park & Ride, involvement in major interchange planning such as Haymarket and Waverley Stations. I have not taken this any further at this stage but the logic is strong.

Objectives F and G are met by the changes to structure described in the migration plan above, especially steps 6,7 and 8. The proposal also appears to meet all legal and tax planning objectives, though some further work is needed to confirm this. Objective H - full coordination with CEC and SE - is already embedded in the governance structure and would be a rolling feature.

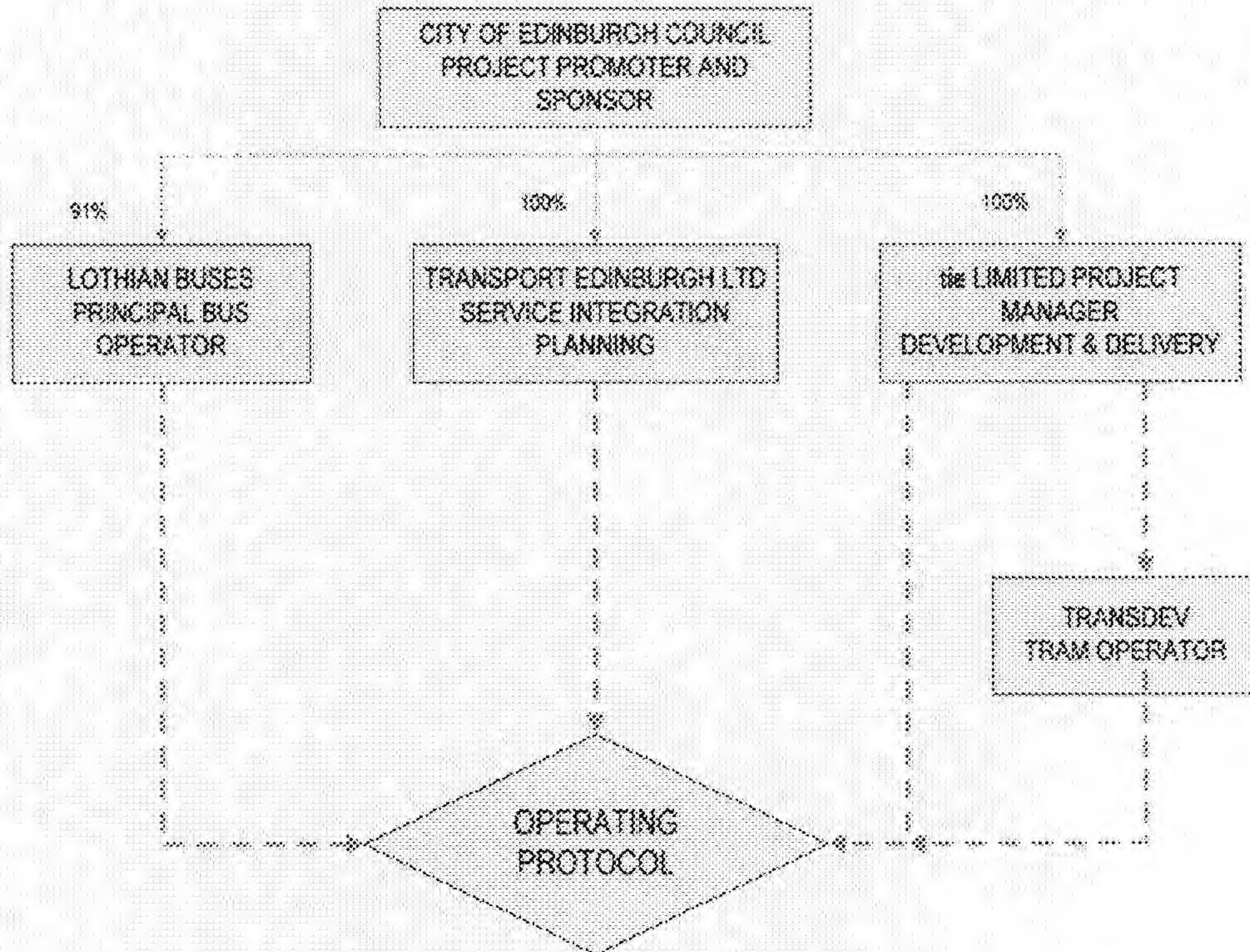
The Boards of tie, LB and TEL have fiduciary duties to their shareholders and to creditors. The fiduciary duties extend to proper stewardship of each company. In view of the integrated nature of the activities of the three companies, it seems that the actions described above would fit with the concept of proper stewardship, because each entity has clearly defined responsibilities, which will be approved by its shareholder.

The most fundamental responsibility is financial stability. At present, tie is properly funded and has specific budget allocation to handle anticipated TEL spend in the current year. Costs already picked up by LB can be reallocated. If the activities of TEL are focussed on service integration as outlined above, subsequent funding awards for 2006-07 from SE (and partly from CEC) will cover the costs. Accounting mechanisms can be installed to match spend / funding with the right companies. Once we are agreed on the corporate structure and responsibilities, it will be possible to set up accounting mechanisms to match spend / funding with the legally responsible entities. The funding application for the next tranche of tram funding will spell this out in detail.

The following three pages show the formal relationships in the three main stages of the project :

1. Through to Financial Close
2. Financial Close to commissioning
3. Operations

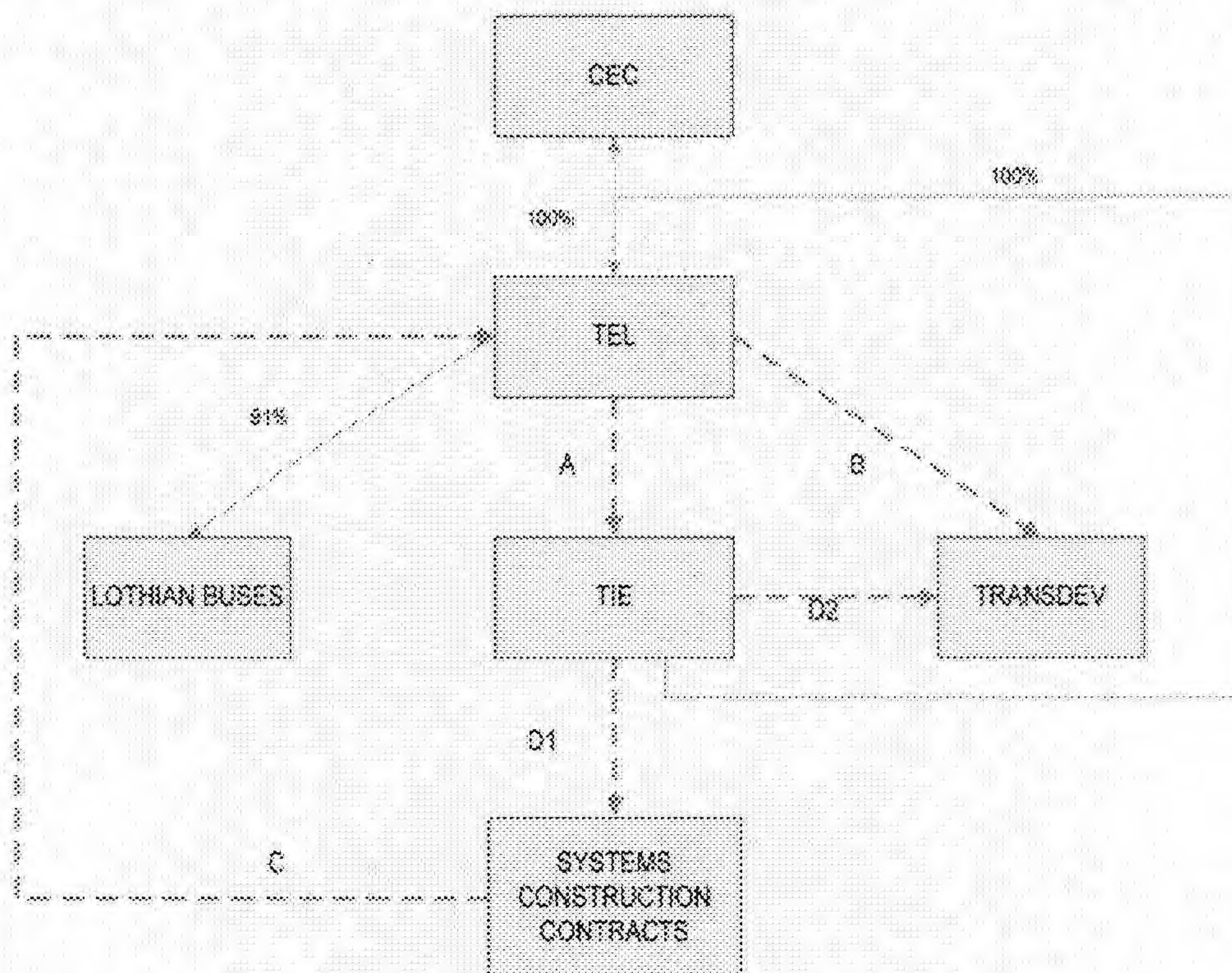
1. FORMAL RELATIONSHIPS AND ROLES OF MAIN PARTIES IN PERIOD TO FINANCIAL CLOSE



Each subsidiary is regulated under a Shareholder/Operating Agreement with the Council.

Unbroken lines represent ownership
 Broken lines represent contractual or semi-contractual relationship. Between the and Transdev this is the DPOFA. The Operating Protocol is required by CEC and will be designed to codify the service integration activities for which TEL is responsible.

2. FORMAL RELATIONSHIPS AND ROLES OF MAIN PARTIES IN PERIOD FROM FINANCIAL CLOSE TO COMMISSIONING



A - Contractual client relationship to project manage delivery

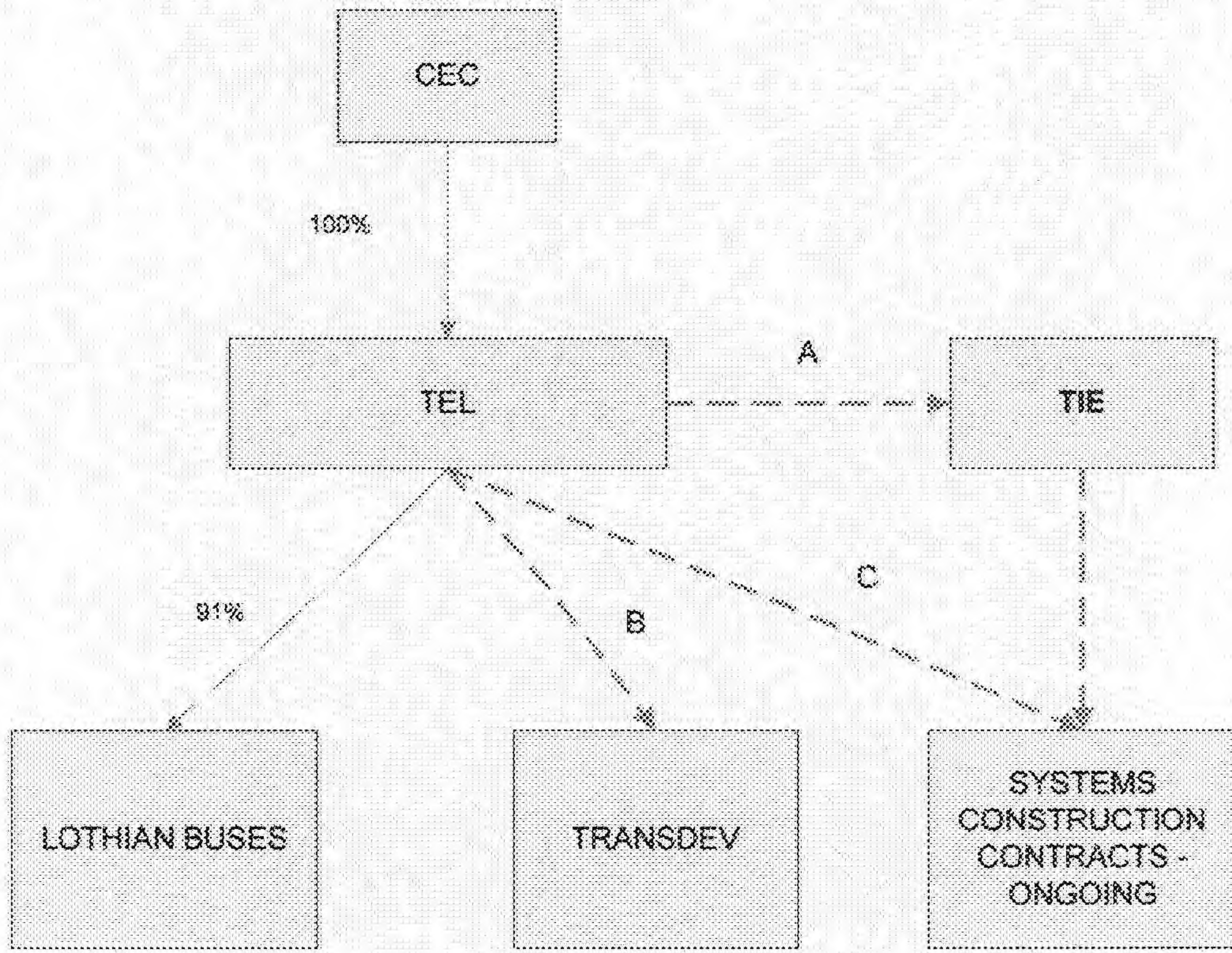
B - DPOFA (Novated)

C - Principle client Systems Contracts relationship including construction, vehicles, SDS

D - Contract project management relationships

Assumes LB shares transferred to TEL at Financial Close.

3. FORMAL RELATIONSHIPS AND ROLES OF MAIN PARTIES FOLLOWING COMMISSIONING



A - Contractual client relationships to handle reliability testing, claims resolution and maintenance management. This will probably require a contractual relationship between tie and the systems contractors to effectively project manage these relationships, similar in principle to the construction period

B - DPOFA

C - Principal contractual relationship for ongoing obligations

In summary, Scenario 1 would lead to the minimum disruption to existing governance structures and responsibilities, but would allow TEL to take on a substantive role in the period to Financial Close, including leadership of service integration planning, communications / marketing planning and third party operator integration. At Financial Close, TEL will require to be prepared to take up the pivotal responsibilities in delivery of successful operations, while tie remains in its primary role of project deliverer. Transdev have a key role in all aspects through their existing contractual relationships. During construction, TEL will be in a position to ensure that all parties hold to decisions made in support of Financial Close and could arbitrate on any disputes which may arise.

Scenario 1A

A variation on Scenario 1 - call it 1A - would follow the same path until step 5 above. Then the Systems Contract relationships are vested in tie, rather than TEL, with tie continuing to have primary responsibility for all aspects to CEC. However, this would fail to build on the momentum developed within TEL and would leave TEL's role somewhat in limbo until mobilisation some 2.5 years away. No doubt a governance structure could be defined which would work, but this seems less attractive than Scenario 1.

5) Board composition and attendance

It is desirable to have a balance between cross-representation, which promotes mutual understanding on issues ; and independent thinking on the part of each entity. The Boards to be addressed are TEL, tie, LB and the Tram Project Board. There are many options and I suggest that the NXDs might have a separate discussion about the appropriate composition. At first sight, the attendance by Execs / operators and observers seems to have most of the right people around each table. There is real challenge in dovetailing agendas and a clear desire to streamline the meetings avoiding duplication of debate. This should again follow agreement on the right model and membership. Finally, in assessing any changes it may be appropriate to focus on active attendance at relevant meetings rather than formal statutory board membership.

The current picture is :

	tie	TEL	LB	TPB*
Members				
Chair	EB	AB	PS	CG
NXDs	CG	WC	WC	MH
	JR	DM	Others	CB
	JB/NEW			NR
				IK
	AB			AW
	MC			DS (Sc Ex)
	BC			AH (CEC)
	ANO **	ANO**		
Execs / operators				
		NR	NR	
		WC	WC	
		MH	NS	
			Others	
		KR (CEC)		
		AW		
* Not a statutory board				
** Anticipated that a non-Labour appointment will be made shortly				
Attending/observers				
	MH	IK		
	DS (Sc Ex)	CB		
	AH (CEC)	SMcG		WC
	IK	NS		DM
	CB	RA		
	NR	JD***		
	JP (PUK)			JP (PUK)
	Others as required	Others as required		
*** Secretary				
	On all 4 Boards, or attending			NR
				MH, IK,
	On TPB, tie, TEL			CB
	On TPB, TEL, LB			WC

6) Other matters for discussion

1. There is a need to capture the activities in proper business plans :
 - a. TEL 2005-06 : Period to 31.3.06, containing a brief summary of activities, noting that there is no significant TEL-specific expenditure, such costs as arise will be met out of previously agreed budgets held by tie. Note that JRC costs are significant, but are budgeted within tie and funded by SE / CEC
 - b. TEL 2006-07 : This will need to respect the financial year end of 31.3.07, but would be most usefully taken forward to Financial Close. This should capture activities and costs, and where appropriate identify costs borne by other parties especially tie. This plan needs to be dovetailed with that of tie for the same period and be directly related to the funding request to SE / CEC which will follow.
 - c. Documents a and b are mainly to fulfil CEC reporting requirements and to support specific funding requests. These documents should be prepared for approval by the TEL Board in December, in line with tie's reporting cycle. The plans will be formally approved by CEC in February, by which time the funding requirements should be agreed.
 - d. A broader ranging "Integrated Service Business Plan" sponsored by TEL should be compiled to capture all of the programmed activity through to commissioning and beyond. This can also be targeted in draft for December's TEL Board, once the TEL development model is approved at the November meeting.
2. The "Transport Edinburgh" name and brand is being used to front a number of CEC transport related schemes and documents. How this is squared away with the vital, but more closely-defined responsibilities for service integration needs addressed. If TEL is to be re-launched, there should be clarity in the public mind about its role.
3. TEL will require advisory support as it develops. We will want to avoid duplication with tie's advice in relation to the tram project to control cost (there is currently no budget provision for an additional legal firm's involvement) and also to ensure progress is made. Assuming Scenario 1 is followed, the following requirements emerge :

Legal :

- > Review of Systems Contracts (construction and vehicles) pre-tender issue - March 2006
- > Review negotiated amendments to Systems Contracts - Q4 2006, Q1 2007
- > Overview of pre-existing contracts with continuing effect (SDS, JRC, MUDFA) - Q4 2006, Q1 2007

This should be a review of the detailed drafting and negotiation work led by DLA, rather a separate drafting process. A duty of care and engagement letter between TEL and DLA has been operating and could be refreshed. The objective is to put the TEL into a position of full knowledge and comfort that the contracts TEL inherits at Financial Close are sound. A procurement process for a third party firm commencing in late November should produce a result in this timeframe.

Now that the incorporation matters are completed, there might be merit in TEL utilising D&W as company secretary, as tie does. The cost of this is minimal in line with the scope of work involved, but ensures all legislative requirements are met. CEC Legal would be involved as appropriate when amendments to Board composition etc are to be implemented.

Financial :

- > Modelling support to arrive at integrated system financial projections to support scope and funding decisions - mainly Q2, Q3 2006
- > Monitoring tax implications of LB share transfer - ongoing and will involve also tax advisers to CEC and LB.

I would recommend that both tie and TEL use PwC for this work ; the need for independent financial advice is less than that for legal advice.

4. Given TEL's unifying role and need for expanding team members over the next few years, an appropriate cost-effective office independent location might be appropriate.
5. There will be intensive work between teams from different organisations in the period ahead. Consideration might be given to intelligent team-building activity to support this. This would be aimed at developing good working relationships and understanding of respective interests. It need not involve leaping off telegraph poles in the dark.
6. The role of the TEL CEO needs to be defined to facilitate separation of activity from that of his LB activities

7) Next steps :

Nov / Dec 2005

- Scenarios to be discussed at the TEL Board on 22.11.05 - follow up dialogue as necessary
- Board composition and agenda management to be addressed dependent upon model adopted
- Competition and other legal aspects to be revisited in light of model adopted
- Tax planning ditto including LB share transfer and position of LB minority interests
- DPOFA legal interests to be reviewed to ensure fully taken into account in agreed TEL migration plan
- When agreed, regardless of model, it will be necessary to develop the three business plans described above. The detailed workstreams which comprise the "Integrated Service Business Plan" and the terms of the Operating Protocol will be a matter of urgency. In addition, CEC also require an Operating Agreement to be put in place between TEL and CEC and this should follow the decisions made on TEL's role and responsibilities.
- Advisory appointments as deemed necessary
- Dec Board to approve :
 - Final TEL development model
 - Integrated Services Business Plan including detailed workstreams
 - Operating Protocol between all parties
 - CEC / TEL Operating Agreement
 - Business Plan for 2005-06
 - Draft Business Plan for 2006-07

APPENDIX 1 - ALTERNATIVE MODELS

Scenario 2

This is really a purer version of 1A. The essence is :

- Tie, within the existing governance structure, takes all responsibility for delivering the project outputs described above (leave aside point 10 for now) through to the latter stages of construction.
- TEL oversees integration activity but has no direct role, possibly other than dispute resolution. The same outputs from integration activity are obviously required as under Scenario 1.
- There is no need for parallel Systems Contract evaluation because tie will be the contracting party, continuing to report to CEC direct.
- Similarly, TEL has no need to engage with the tenderers as it will have no direct responsibility during the construction period.
- The migration of control of LB from LB to TEL could take place at (say) Financial Close, including Board changes. At or around commencement, TEL would acquire the shares in LB, and the DPOFA contract would be novated to TEL.
- Tie would have the same post-commencement responsibilities as above.

The benefits would include :

- Continuation of tie's current central role, avoids need to manage interface between tie and other entities
- Allows tie to interface with contractors, more limited need for a new entity (TEL) to be involved

The flaws include :

1. The project would be denied TEL's ability to provide a unifying approach to integration planning, which all individual parties will struggle to emulate. Under this Scenario, there is no obvious forum for managing any conflicting commercial interests, nor for developing an integrated marketing and public communications plan.
2. The ability to place bus operational and marketing skills in a central position as the project develops is much more limited.
3. TEL will still require to be put into position for post-commencement operational management. If it has only limited involvement in the integration planning and tram delivery, it will be considerably less prepared for its operational management role in 2010.

4. A more peripheral role for TEL would not make use of the non-executive skills and experience which has been recently brought aboard and which may be usefully augmented further under a Scenario 1 model.
5. Except for the integration planning, this would probably not be a no-hoper for CEC and the Executive ; however, the integration planning is so key that a better model would almost certainly be favoured.

In summary, this could be made to work but does not seem to be as attractive as Scenario 1. For some parties, it will be very unattractive, leading to sub-optimal contribution.

Scenario 3

In some respects the opposite to Scenario 2. The essence is :

- Immediately following Royal Assent, the project delivery team within tie is transferred to TEL and all contractual relationships are legally re-assigned to TEL ; tie therefore ceases to have any material role in the tram project.
- TEL is therefore directly responsible for tram delivery and also picks up the service integration role described under Scenario 1. TEL would also take up the roles with communications and third-party operators
- At Financial Close, TEL is the contracting party for the Systems Contracts but also the deliverer, so there is no further role for tie. TEL would see through all the delivery aspects described under Scenario 1 and would also take on post-commencement responsibilities.

The benefits are :

- The tram project structure would be simplified by removing a company - tie.
- There would be no need for both tie and TEL to present to prospective tenderers and the structure presented to tenderers will be simpler.
- The tax planning around LB share transfer should be simplified as TEL would have a trading role (tram development) much earlier. The definitions would need further examination to be certain.

The flaws with this scenario include :

- None of tie's contracts except the DPOFA can be re-assigned without the other party's consent ; the process of legal re-assignment would therefore be very disruptive
- Tie is a project delivery company with its own internal efficiencies (shared services, cross-project skills) and management structure. These attributes would either be lost or would need to be replicated within TEL.