

CABINET - SUBJECTS FOR CONSIDERATION, 23 AUGUST 2004 11:00 AM

Not Relevant

1 New Initiatives/Policy Matters

Not Relevant

105

MTRAN23/04CS

**Adelaide Light Rail - Tramcar Procurement
APPROVED**

Not Relevant

CABINET COVER SHEET

1. **TITLE:** ADELAIDE LIGHT RAIL; TRAM PROCUREMENT
2. **MINISTER:** Trish White
Minister for Transport
3. **PURPOSE:** To seek Cabinet approval to enter into an Agreement for the Supply of Tramcars and Support Services for \$47.4m (subject to currency fluctuations, which has been hedged in line with advise from SAFA) for the supply of 9 70% lowfloor tramcars.
4. **IDENTIFY THE RELEVANT GOVERNMENT POLICY AND/OR STATE STRATEGIC PLAN TARGET:**

Fulfil a Government commitment as announced by the Premier and then Minister for Transport on 24 May 2003 to purchase 9 new low floor, fully air-conditioned, DDA compliant trams as well as up-grading the tramway infrastructure.

This project is an integral part of the policy to increase public transport patronage from 5% to 10% of all passenger travel by 2018 in accordance with State Strategic Plan.
5. **RESOURCES REQUIRED FOR IMPLEMENTATION:**

In the 2004-05 Budget, \$71.9m was allocated for this project including \$45.9m for the purchase of 9 new tramcars. Increases in the cost of the trams with subsequent proposed adjustments to the infrastructure budget are set out in the table below.

2004-05	-\$5.570m
2005-06	\$NIL
2006-07	<u>\$5.300m</u>
Total	- \$0.270m

Treasury and Finance agrees with the basis of the assessment of costs contained in this submission.
6. **COMMUNITY AND ENVIRONMENTAL IMPACT:** The lowfloor trams have positive benefits for commuters. They increase accessibility for the mobility impaired, have lower impact on residential areas adjacent to the tramway, and are energy efficient and non-polluting.
7. **RISKS:** There are a number of risks including;
 - Financial relating to progress payments and warranties

- Technical relating to the characteristics of the new tram meeting specification
- Timing relating to the first trams being delivered in December 2005.
- As TransAdelaide is currently proposed to undertake the maintenance there is a potential issue associated with the warranty. This is mitigated by a Bombardier Supervisor overseeing the work.
- Public acceptance as the new trams have fewer seats than the existing H-Class trams but are consistent with seating capacity of those provided in Melbourne.
- Human resource implications in the operation and maintenance of new trams, as fewer resources are required. This will be the subject of another cabinet submission.

8. CONSULTATION:

- Crown Solicitors Office drafted the legal agreement and associated documentation.
- Department of Treasury and Finance agrees with the financial analysis and the instruments of providing financial security.
- SAFA has provided the details on foreign currency and hedging.
- TransAdelaide is part of the project team and provided specialist technical evaluation.
- Adelaide City Council and Holdfast Bay Council were consulted in relation to DDA access at on-street tram stops.
- State Supply Board (SSB) has been consulted on the procurement process, tender evaluation and negotiations. A representative of the SSB attended various meetings.

9. COMMUNICATION STRATEGY:

A communication strategy is being developed for media announcements.

10. URGENCY:

Subject to the 10 day rule. An extended delay in decision making will affect the delivery date of the first tram and the cost.

11. RECOMMENDATIONS:

It is recommended that Cabinet;

- 4.1 approve the Minister for Transport entering into an Agreement for the Supply of Tramcars and Support Services with Bombardier Transportation Australia Ltd for nine (9) new 70% low floor tramcars for the Glenelg to Adelaide City tram service to be delivered progressively between December 2005 and April 2006.
- 4.2. approve purchase of nine tramcars for a total price of \$47.4 m (subject to adjustment for currency fluctuations, which has been hedged in line with advice from SAFA) paid as a series of progress payments over the 2004-05 and 2005-06 financial years and note that these progress payments will be protected by Advance Payment Bonds equal in value to the progress payments.
- 4.3 approve a carryover of \$0.270m from 2003-2004 to 2004-2005, resulting from an underspending on the infrastructure budget in 2003-2004.
- 4.4 approve a change in the Project Expenditure Profile, which will result in the following Budget Impact:

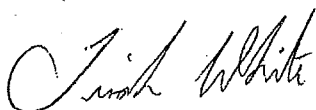
2004-05	-\$5.570m
2005-06	\$NIL
2006-07	\$5.300m
- 4.5 approve the method for making progress payments and the revised cash flow for the project.
- 4.6 approve the capping of Public Liability for any single event or claim and the aggregate claim for Product Liability at \$75m but liability arising from death or personnel injury is to remain uncapped and/or unlimited, and to approve the capping of professional indemnity (PI) claims relating to professional negligence at \$10m
- 4.7 note that future maintenance costs for the new trams will be met from within

TransAdelaide's existing budget allocation over the forward estimates period, and that the average annual maintenance costs beyond this period will be generally in line with current levels.

4.8 note that the operation and maintenance of the new trams by TransAdelaide requires fewer resources and new skills which will result in 19 to 24 current employees being allocated to other work in TransAdelaide and/or offered voluntary redundancy packages. The exact number will depend upon patronage and service frequency.

4.9 note that I will return to Cabinet within two months with a separate submission detailing; (1) the human resources implications of the tram acquisition project on TransAdelaide and the State Budget; and (2) a proposed industrial relations strategy for dealing with this issue.

I declare that I have no actual or potential conflict of interest in relation to the proposals contained in this submission.



Trish White
MINISTER FOR TRANSPORT

2018/2004

TO: THE PREMIER FOR CABINET

RE: ADELAIDE LIGHT RAIL – TRAMCAR PROCUREMENT

1. PROPOSAL

- 1.1. To enter into an Agreement for the Supply of Tramcars and Support Services with Bombardier Transportation Australia Ltd for nine (9) new 70% low floor tramcars for the Glenelg to Adelaide City tram service to be delivered between December 2005 and April 2006.
- 1.2. To purchase the nine tramcars for a total price of \$47.4m (subject to adjustment for currency fluctuations, which has been hedged in line with advice from SAFA) paid as a series of progress payments over the 2004-05 and 2005-06 financial years and to note that these progress payments will be protected by Advance Payment Bonds equal in value to the progress payments.
- 1.3. To approve a carryover of \$0.270m from 2003-2004 to 2004-2005, relating to an underspending on the infrastructure budget in 2003-2004.
- 1.4. To approve a change in the Project Expenditure Profile, refer 3.6.5, which will result in the following Budget Impact:

2004-05	-\$5,570m
2005-06	\$Nil
2006-07	\$5.300m
- 1.5. To approve the method for making progress payments and revised cash flow for the project.
- 1.6. To approve the capping of liabilities for public and product liabilities at \$75m except for professional negligence which will be capped at \$10m, but note liability arising due to death or personal injury is uncapped and/or unlimited liabilities stand.
- 1.7. Note that future maintenance costs for the new trams will be met from within TransAdelaide's existing budget allocation over the forward estimates period, and that the average annual maintenance costs beyond this period will be generally in line with current levels.
- 1.8. Note that the operation and maintenance of the new trams by TransAdelaide requires fewer resources and new skills which will result in 19 to 24 current employees being allocated to other work in TransAdelaide and/or offered voluntary redundancy packages. The exact number will depend upon patronage and service frequency.
- 1.9. Note that I will return to Cabinet within 2 months with a separate submission detailing: (1) the human resources implications of the tram acquisition project on TransAdelaide and the State Budget; and (2) a proposed industrial relations strategy for dealing with this issue.

2. BACKGROUND

- 2.1. On 24 May 2003 the Premier and the then Minister for Transport announced that the long awaited replacement of the Glenelg tram fleet with a State budget allocation of \$56m for the purchase of nine European styled light rail 100% low floor vehicles and an up-grade of the track and passenger stops.
- 2.2. Cabinet approved a proposal to purchase rather than lease 9 trams on 22 September 2003. Advice was provided in that cabinet submission on the impact on current TransAdelaide employees involved in the maintenance and operation of trams.
- 2.3. The estimated cost of the trams was \$3.5m each, for a total of \$31.5m. This estimate of price was based upon advice from the private sector (KPMG), from the Victorian Department of Infrastructure which is currently being supplied with trams at this price from earlier contracts, and from published data on contracts let in Europe.
- 2.4. The worldwide tender call for new trams took place on 1 and 3 November 2003. Tenders closed on 6 January 2004.
- 2.5. Only two tenders were received, from Bombardier Transportation Australia Pty Ltd and Siemens Ltd, two of the three major tram manufacturers in the world. The third company, Alstom did not tender.
- 2.6. The tender prices were approximately double that budgeted for and subsequent advice is that all three major manufactures had simultaneously increased their prices because of low profitability in the industry.
- 2.7. Negotiations initially were instigated with both tenderers to try and obtain a more favourable price. Subsequently, negotiations focussed on exploring suitable alternative vehicles at a lesser price.
- 2.8. In a " note " submitted in May this year, Cabinet was advised that Bombardier Australia had been selected as the preferred tenderer based on providing an alternate 70% low floor, slightly narrower tram and Disability Discrimination Act (DDA) compliant tram. The selection process was guided by price and by Siemens advice that it could not provide a structurally sound tram in the foreseeable future.
- 2.9. The preliminary per tram price, based on Bombardier's best and final offer, was in the range of \$5.17m to \$5.45m or between \$46.53 m and \$49.05m for the total procurement.
- 2.10. Subsequently the overall budget for both procurement and infrastructure was increased from the original budget of \$56m as announced by the Premier in May 2003 to \$71.9m in the 2004-05 Budget. The revised figure for the rolling stock in 2004/2005 budget is \$45.9m.
- 2.11. The complementary infrastructure up-grade of the tramway system has a budget of \$26m for sleeper and rail replacement, station and platform modification and up-grade, and possibly up-grade of the electrical supply system. The Department will seek to absorb any increase in the cost of the trams within the overall budget allocation of \$71.9m by adjustment within the tram infrastructure budget.

3. DISCUSSION

- 3.1. Bombardier's offer is based on a tram currently operating in Frankfurt Germany. The most economical procurement can be obtained by purchasing an existing model of tram with minimum customisation and currently in production in a factory. A small order for a custom designed tram not already in production would be prohibitively expensive.
- 3.2. The Bombardier alternate tram is slightly narrower (265mm) than the current old H-Class trams although it runs on the same standard gauge rail. Some modifications will be required to station platforms to accommodate both types of trams. It should be noted that all European trams have a greater emphasis on standing rather than seated passengers. The carrying capacity of the new trams is approximately 180 with 64 seated. The current two car sets of the H-class trams have the capacity of 128 seated in cramped conditions and 60 standing. The new trams have 2 wheelchair spaces, the old trams have none. It is also important to note that the seating and standing configuration for these new trams is similar to the new Melbourne trams.
- 3.3. The trams have been inspected in Germany by DTUP and TransAdelaide officials with assistance from experts from the Victorian Department of Infrastructure who have contemporary experience in modern tram technology. The inspection included discussions with the operators in Frankfurt (vgF) and negotiations at the factory site in Bautzen. vgF is the municipal operator in Frankfurt and it states that the trams are highly reliable and incur very low maintenance.
- 3.4. To minimise cost and ensure delivery times, modifications to the tram design and features need to be kept to a minimum. Following discussions in Bautzen, some modifications were considered to be essential, these included;
 - Increase the cooling capacity of the airconditioning system to meet conditions in Adelaide,
 - Install a next stop call button system (Frankfurt trams stop at every station),
 - Add two additional ramps for access for people with mobility impairments.
 - Add CCTV cameras for safety reasons.
 - Add flange lubrication system.
 - Adjustment in spare parts and special tooling

Although some savings have been achieved by deleting non-required or non-essential items some significant issues have been highlighted as detailed above and the addition of the hedging option, have resulted in an additional overall cost of \$1.50m. The revised total price is \$47.4m (GST exclusive), which includes an allowance of \$1.57m for spare parts and special tooling. As indicated in 2.11 my Department will seek to absorb this increase within the total project cost of \$71.9m.

- 3.5. Delivery of the first tram is still scheduled for December 2005, subject to the contract being signed by the end of August, with the delivery of the last tram due in April 2006. The first tram will probably take two to three months to come into service as extensive testing on the renewed infrastructure and safety checks will be required.

3.6. Economic, financial and budgetary implications

Required resources

- 3.6.1. The budget for the tram procurement and infrastructure works was established at \$71.9m in the 2004/05 Budget. The notional price for the trams was set at \$45.9m and the infrastructure at \$26m with the prospect that if the costs of the tram purchase exceeded this amount then economies would be sought through winding back the infrastructure expenditure.
- 3.6.2. Discussions have been held with Bombardier to determine the extent of any discount to the capital cost which might apply if Bombardier was awarded the maintenance contract. In summary Bombardier is offering a saving of \$1.1m on the capital cost but its maintenance quote represents a premium of \$0.38m /annum over TransAdelaide's costs. The use of Bombardier for maintenance could be expected to generate considerable industrial disputation affecting TransAdelaide. It could also raise suggestion of Government privatisation of tram maintenance. It is not proposed to use Bombardier for maintenance given that there is no financial benefit and there are also possible industrial and/or political issues. Bombardier have confirmed that the use of TransAdelaide for the maintenance, during the warranty period, will not invalidate the warranty as long as the proposal put forward with the tender is adhered to.
- 3.6.3. The supply only option has a capital cost of \$ 47.4m or \$5.267m per tram. This price includes a provision of \$1.3m for spare parts and special tools. The supplier also will be expected to provide all training, including training for maintenance, driver training and written procedures and manuals and TransAdelaide may still be required to engage specialist technical advice from Bombardier.
- 3.6.4. Bombardier has sought a considerable amount of the purchase price up-front, this is consistent practice in this type of industry, during the manufacturing phase of the trams. The outline of the proposal is as follows;

30% at contract initiation

30% after 135 days

30% after 195 days

1/9 of 10% as each tram is accepted

The progress payments are secured with advance payment guarantee in the same amount as the progress payment issued by an approved bank on unconditional terms.

- 3.6.5. Revised Project Expenditure Profile based on a purchase price of \$47.4m

ADELAIDE LIGHT RAIL – TRAM PROCUREMENT

BUDGET IMPACT

	2004-05	2005-06	2006-07	Total
	\$M	\$M	\$M	\$M
Approved Budget				
Purchase of Trams	20.000	20.600	5.300	45.900
Provision of Infrastructure	24.800			24.800
Total Approved Budget	44.800	20.600	5.300	70.700
Revised Budget				
Purchase of Trams	31.370	16.300		47.400
Provision of Infrastructure	19.000	4.570		23.570
Total Approved Budget	50.370	20.600	0.000	70.970
Budget Impact	-5,570	Nil	5.300	-0.270

Note: 2004-05 includes \$270k carryover from 2003-04

- 3.6.6. Cabinet should be aware that the tram price has been subject to currency fluctuations. The original price, although quoted in Australian Dollars (AUD) was based on the imported component being priced out of Germany in Euros. The exchange rate of 17 December 2003, which has been used by Bombardier as the basis of quoting prices was 0.5923 Euros to the Australian Dollar. While a hedging option has been taken out, based on advice from SAFA, to put a floor under the exchange rate, at 1 AUD = 0.5715 Euros, as a risk management measure (at a cost of \$579,000 to the project) variation in the rate above the floor will affect the final price. SAFA advises that a one cent fluctuation in the exchange rate adds or subtracts approximately A\$676,000 to/from the tram price. For example if the current exchange rate of 1 AUD = 0.5824 Euros, were to apply then this would add an additional \$631,725.00 to the cost. Once the contract is signed the risk of managing currency fluctuations transfers to Bombardier.
- 3.6.7. The infrastructure expenditure has been pruned to \$23.57m and will be the subject of a separate Cabinet submission once details have been finalised. The specifics of the infrastructure works could not be determined until the tram characteristics were known. Consequently, the carryover of infrastructure expenditure into 2005-2006 has resulted from the extended negotiations for the tram purchase and at the request of DTF this carryover has been kept to a minimum (\$4.57m).
- 3.7. Staffing implications
- 3.7.1. TransAdelaide estimates that only 2 of the currently employed 11 maintenance staff would have the necessary skill and qualifications to be suitable for training to service and maintain the new trams. Additional staff would have to be recruited, either from other areas of TransAdelaide or externally, and they will need to receive specialist training. Initially two with a further one full time and one part time, as maintenance demands increase, will need to be recruited. If this staffing estimate is correct then approximately 9 current employees will be surplus to requirements and will need to be either offered employment elsewhere in TransAdelaide or offered a voluntary redundancy package. To

ensure the warranty is not impacted or placed at risk it is important that at least one key person be trained in Europe and a supervisor from Bombardier be brought to Adelaide to oversee the key maintenance activities over the warranty period.

- 3.7.2. The number of drivers and conductors required is also expected to diminish with fewer trams in service and only one conductor being required for each new tram instead of two in a coupled set of the H-trams. The actual numbers required is yet to be accurately determined because the nature and the frequency of the eventual heritage tourist service of the 5 retained H-class trams has not been decided. However, as a working estimate it is assumed that driver and conductor numbers will reduce between 10 to 15 employees depending on frequency of services of the new trams and per above re H-class trams. These personnel also will have to be offered voluntary redundancy packages or alternative employment in TransAdelaide. TransAdelaide has extensive experience in the management of redeployees and industrial relations refer to 3.9.2 for further information on the approach to manage this key issue.
- 3.7.3. The new tramcars are much more complex vehicles to drive and it is essential that the drivers are given adequate familiarisation and training. This is especially important to avoid any industrial action when the new vehicles are introduced (as has happened elsewhere). Consequently it is proposed to send two drivers to Germany in advance of the delivery of the trams, as part of a familiarisation process and train the trainer program. A mock-up of the driver's cabin is also proposed to be established at Glengowrie.

3.8. Impact on the community and the environment

Impact on Families and Society

- 3.8.1. The immediate impact of this project will be that people with mobility disabilities will be able to use the tram service. The low floor trams will also be more accessible for prams, pushers, shopping trolleys and bicycles.
- 3.8.2. The Disability Standards for Accessible Public Transport of the DDA, covering the infrastructure associated with public transport (i.e. train stations, bus terminals and interchanges) have been used in the development of the concept plan. The major provisions are:

- Seamless entry, new tram floor height will match that of the tram platform.
- Adjacent streets/local paths and roads linking tram platform access will comply with the prescribe gradients and surface treatments as per DDA,
- Other standards will be included in the design and construction (e.g. tactile pavement, appropriate signage, sheltering), and
- Additional ramps will be installed in the new trams to assist mobility impaired access, particularly at the "at street" stops in King William Street and Jetty Road.

3.8.3. Regulatory Impact

- The Rail Safety Regulator has been consulted on the technical characteristics and performance of the proposed vehicle.
- The vehicles will have to undergo rigorous testing on the Glenelg tramway before being accepted into service.
- No planning approvals are required
- The purchase of the trams will assist South Australia comply with the requirements of the DDA.

3.8.4. Regional Impact

There is no regional impact.

3.8.5. Impact on Small Business

The combined effect of new trams and improved infrastructure is anticipated to increase patronage, which may increase residential density along the tramway and attract more people to both Glenelg and the CBD. As the trams are fully manufactured in Europe there is no opportunity for small business involvement in the manufacture of the trams. The infrastructure upgrade element of this project offers significant opportunity for small business involvement.

3.8.6. Environmental Impact

The project will have a positive effect on the environment, by:

- Remediating the current contaminated ballast associated surface soil, by either cleaning or removal to an accredited dumping facility.
- Reducing noise levels inside the tram giving more passenger comfort.
- Reducing noise levels external to the tram arising from the technical characteristics of the new trams and from the up-graded infrastructure.
- Encouraging increased passenger use with subsequent decrease in private car use, traffic congestion and greenhouse effects.

3.9. Risk Management Strategy

3.9.1. The financial risk management strategy is embodied within the terms of the Agreement to Supply Trams and Support Services. The key risks and associated mitigation strategies are as follows;

- Financial soundness of the supplier – due diligence assessments have been undertaken of both Bombardier Transportation Australia and Bombardier Inc (Montreal),
- Ability to deliver – parent guarantees have been obtained from Bombardier Inc to back the obligations of Bombardier Australia,
- Security of progress payments – unconditional Advance Payment Bonds will be issued to the Government of a value equal to any Progress Payments made, and Payment milestones are to be subject to independent verification before payment,
- Security of the Advance Payment Bonds – Issued by a bank rated by Standard and Poors at least A+ by SAFA,
- Warranty not secured – Bombardier to provide unconditional bank guarantee to the value of 5% of contract price during the warranty period,
- Trams not delivered by December 2005 – A delivery schedule for the 9 trams has been established with liquidated damages of 0.05% of the value of a tram, per tram per day, for late delivery.

3.9.2. There are other possible risks and the mitigation strategies as follows;

- Industrial issues associated with drivers not being familiar with the new tram cabin and control layout — two drivers to be sent to Germany to familiarise themselves with the new tram and become driver trainers, and TransAdelaide to continue consultative processes with employees and Unions.

3.10. Implementation Plan

- 3.10.1. Once Cabinet approves of this proposal, the Agreement to Supply Tramcars and Support Services will be appropriately forwarded for the Minister's signature and seal. The Agreement contains a number of conditions precedent. However, signing of the Agreement will enable Bombardier Transportation Australia to lodge the order with the factory in Germany. The contract will need to be signed prior to the end of August to ensure delivery of the first tram in December.
- 3.10.2. During the manufacturing process Bombardier is required to provide monthly reports on progress and independent verification is required before progress payments are made.
- 3.10.3. While the trams are being manufactured the tram infrastructure will be up-graded (the subject of a further Cabinet submission).
- 3.10.4. Bombardier anticipates shipping three trams at a time, with the first to arrive in December 2005, the last three in April 2006. The first three trams will undergo extensive testing for safety and compatibility with the infrastructure before being introduced into service. The testing process is expected to last for two to three months.
- 3.10.5. As the new trams are introduced into service, the H-class trams will be progressively withdrawn from service.

3.11. Communication Strategy

A communication and consultation strategy is being drawn up in DTUP to encompass both the upgrade of the infrastructure and the introduction of the new trams.

3.12. Executive Council

Not applicable.

4. RECOMMENDATIONS

It is recommended that Cabinet:

- 4.1. approve the Minister for Transport entering into an Agreement for the Supply of Tramcars and Support Services with Bombardier Transportation Australia Ltd for nine (9) new 70% low floor tramcars for the Glenelg to Adelaide City tram service to be delivered progressively between December 2005 and April 2006.
- 4.2. approve purchase of nine tramcars for a total price of \$47.4 m (subject to adjustment for currency fluctuations, which has been hedged in line with advice from SAFA) paid as a series of progress payments over the 2004-05 and 2005-06 financial years and note that these progress payments will be protected by Advance Payment Bonds equal in value to the progress payments.
- 4.3. approve a carryover of \$0.270m from 2003-2004 to 2004-2005, resulting from an underspending on the infrastructure budget in 2003-2004.

- For staff no longer required for the operation or maintenance of the new Trams, TransAdelaide will either explore the opportunity for Targeted Voluntary Separation Packages for those who request them or provide assistance to the staff in finding employment in other areas within TransAdelaide or other parts of the Public Service. In this regard TransAdelaide has considerable experience and have established a process, which has proved successful in managing the redeployees resulting from the loss of the bus business. This process reduced redeployees from 153 in April 2001 to 8 by June 2004.

The Industrial Relations risk will be managed by TransAdelaide through regular consultation and negotiations with the Unions and in the discussions on the pending EBA agreement.

- Public rejection of the new trams because of fewer seats through a communication strategy, stress the positive characteristics of the new trams and make it clear that there are fewer seats; increase the frequency of services. The seating arrangements are comparable to the new trams in Melbourne.

3.9.3 Capping of Liabilities

Bombardier will not accept across-the-board unlimited and/or uncapped liabilities but a negotiated position has been achieved.. Public Liability for any single event or claim and the aggregate claim for Product Liability has been agreed at \$75m (up from \$30m) but liability arising from death or personnel injury is uncapped and/or unlimited liabilities stand. A risk assessment has been undertaken on this project and the risk of an event occurring which would exceed \$75m is deemed to be low. Bombardier also will indemnify for professional indemnity (PI) claims relating to professional negligence to the required value of \$10m.

3.10 Consultation

- The Crown Solicitor's Office has drafted all the documentation,
- SAICORP has been consulted on all insurance matters in the Agreement to Supply Tramcars,
- The Department of Treasury and Finance has provided advice on budgetary and financial risk matters and has been part of the evaluation process,
- SAFA has provided advice on financial securities and hedging,
- The State Supply Board has endorsed the procurement strategy and provided an observer during the tender evaluation process,
- TransAdelaide has assisted in the technical evaluation,
- Office of Passenger Transport has been part of the evaluation process, particularly on technical aspects,
- Transport Services of DTUP has been consulted in respect of traffic flows and rail crossings, and
- An independent probity advisor from the private sector assisted the process.

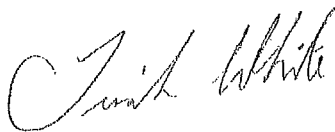
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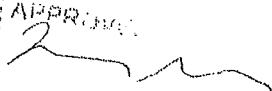


Trish White
MINISTER FOR TRANSPORT

20/8/2004

In Cabinet

23 AUG 2004

APPROVED

PREMIER

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 - SAFA has provided the details on foreign currency and hedging.
 - TransAdelaide is part of the project team and provided specialist technical evaluation.
 - Adelaide City Council and Holdfast Bay Council were consulted in relation to DDA access at on-street tram stops.
 - State Supply Board (SSB) has been consulted on the procurement process, tender evaluation and negotiations. A representative of the SSB attended various meetings.
8. **CONSULTATION:**
9. **COMMUNICATION STRATEGY:** A communication strategy is being developed for media announcements.
10. **URGENCY:** Subject to the 10 day rule. An extended delay in decision making will affect the delivery date of the first tram and the cost.
11. **RECOMMENDATIONS:** It is recommended that Cabinet;
- 4.1. Approve the Minister for Transport entering into an Agreement for the Supply of Tramcars and Support Services with Bombardier Transportation Australia Ltd for nine (9) new 70% low floor tramcars for the Glenelg to Adelaide City tram service to be delivered progressively between December 2005 and April 2006.

- 4.2 approve purchase of nine tramcars for a total price of \$47.4 m (subject to adjustment for currency fluctuations, which has been hedged in line with advice from SAFA) paid as a series of progress payments over the 2004-05 and 2005-06 financial years and note that these progress payments will be protected by Advance Payment Bonds equal in value to the progress payments.
- 4.3. approve a carryover of \$0.270m from 2003-2004 to 2004-2005, resulting from an underspending on the infrastructure budget in 2003-2004.
- 4.4 approve a change in the Project Expenditure Profile, which will result in the following Budget Impact:
- | | |
|---------|-----------|
| 2004-05 | -\$7.860m |
| 2005-06 | \$2.290m |
| 2006-07 | \$5.300m |
- 4.5 approve the method for making progress payments and the revised cash flow for the project.
- 4.6 approve the capping of liabilities for public and product liabilities to \$75m but note liability arising from death or personal injury is uncapped and/or unlimited liabilities stand.
- 4.7 note that future maintenance costs for the new trams will be met from within TransAdelaide's existing budget allocation over the forward estimates period, and that the average annual maintenance costs beyond this period will be generally in line with current levels.
- 4.8 note that the operation and maintenance of the new trams by TransAdelaide requires fewer resources and new skills which will result in 19 to 24 current employees being allocated to other work in TransAdelaide and/or offered voluntary redundancy packages. The exact number will depend upon patronage and service frequency.

- 4.9 note that I will return to Cabinet within two months with a separate submission detailing; (1) the human resources implications of the tram acquisition project on TransAdelaide and the State Budget; and (2) a proposed industrial relations strategy for dealing with this issue.

I declare that I have no actual or potential conflict of interest in relation to the proposals contained in this submission.



Trish White

MINISTER FOR TRANSPORT

12/1 ⁸ 12/2004

TO: THE PREMIER FOR CABINET

RE: ADELAIDE LIGHT RAIL – TRAMCAR PROCUREMENT

1. PROPOSAL

- 1.1. To enter into an Agreement for the Supply of Tramcars and Support Services with Bombardier Transportation Australia Ltd for nine (9) new 70% low floor tramcars for the Glenelg to Adelaide City tram service to be delivered between December 2005 and April 2006.
- 1.2. To purchase the nine tramcars for a total price of \$47.4m (subject to adjustment for currency fluctuations, which has been hedged in line with advice from SAFA) paid as a series of progress payments over the 2004-05 and 2005-06 financial years and to note that these progress payments will be protected by Advance Payment Bonds equal in value to the progress payments.
- 1.3. To approve a carryover of \$0.270m from 2003-2004 to 2004-2005, relating to an underspending on the infrastructure budget in 2003-2004.
- 1.4. To approve a change in the Project Expenditure Profile, refer 3.6.5, which will result in the following Budget Impact:

2004-05	-\$7.860m
2005-06	\$2.290m
2006-07	\$5.300m
- 1.5. To approve the method for making progress payments and revised cash flow for the project.
- 1.6. To cap liabilities for public and product liabilities at \$75m but note liability arising due to death or personal injury is uncapped and/or unlimited liabilities stand.
- 1.7. Note that future maintenance costs for the new trams will be met from within TransAdelaide's existing budget allocation over the forward estimates period, and that the average annual maintenance costs beyond this period will be generally in line with current levels.
- 1.8. Note that the operation and maintenance of the new trams by TransAdelaide requires fewer resources and new skills which will result in 19 to 24 current employees being allocated to other work in TransAdelaide and/or offered voluntary redundancy packages. The exact number will depend upon patronage and service frequency.
- 1.9. Note that I will return to Cabinet within 2 months with a separate submission detailing: (1) the human resources implications of the tram acquisition project on TransAdelaide and the State Budget; and (2) a proposed industrial relations strategy for dealing with this issue.

2. BACKGROUND

- 2.1. On 24 May 2003 the Premier and the then Minister for Transport announced that the long awaited replacement of the Glenelg tram fleet with a State budget allocation of \$56m for the purchase of nine European styled light rail 100% low floor vehicles and an up-grade of the track and passenger stops.
- 2.2. Cabinet approved a proposal to purchase rather than lease 9 trams on 22 September 2003. Advice was provided in that cabinet submission on the impact on current TransAdelaide employees involved in the maintenance and operation of trams.
- 2.3. The estimated cost of the trams was \$3.5m each, for a total of \$31.5m. This estimate of price was based upon advice from the private sector (KPMG), from the Victorian Department of Infrastructure which is currently being supplied with trams at this price from earlier contracts, and from published data on contracts let in Europe.
- 2.4. The worldwide tender call for new trams took place on 1 and 3 November 2003. Tenders closed on 6 January 2004.
- 2.5. Only two tenders were received, from Bombardier Transportation Australia Pty Ltd and Siemens Ltd, two of the three major tram manufacturers in the world. The third company, Alstom did not tender.
- 2.6. The tender prices were approximately double that budgeted for and subsequent advice is that all three major manufactures had simultaneously increased their prices because of low profitability in the industry.
- 2.7. Negotiations initially were instigated with both tenderers to try and obtain a more favourable price. Subsequently, negotiations focussed on exploring suitable alternative vehicles at a lesser price.
- 2.8. In a " note " submitted in May this year, Cabinet was advised that Bombardier Australia had been selected as the preferred tenderer based on providing an alternate 70% low floor, slightly narrower tram and Disability Discrimination Act (DDA) compliant tram. The selection process was guided by price and by Siemens advice that it could not provide a structurally sound tram in the foreseeable future.
- 2.9. The preliminary per tram price, based on Bombardier's best and final offer, was in the range of \$5.17m to \$5.45m or between \$46.53 m and \$49.05m for the total procurement.
- 2.10. Subsequently the overall budget for both procurement and infrastructure was increased from the original budget of \$56m as announced by the Premier in May 2003 to \$71.9m in the 2004-05 Budget. The revised figure for the rolling stock in 2004/2005 budget is \$45.9m.
- 2.11. The complementary infrastructure up-grade of the tramway system has a budget of \$26m for sleeper and rail replacement, station and platform modification and up-grade, and possibly up-grade of the electrical supply system. The Department will seek to absorb any increase in the cost of the trams within the overall budget allocation of \$71.9m by adjustment within the tram infrastructure budget.

3. DISCUSSION

- 3.1. Bombardier's offer is based on a tram currently operating in Frankfurt Germany. The most economical procurement can be obtained by purchasing an existing model of tram with minimum customisation and currently in production in a factory. A small order for a custom designed tram not already in production would be prohibitively expensive.
- 3.2. The Bombardier alternate tram is slightly narrower (265mm) than the current old H-Class trams although it runs on the same standard gauge rail. Some modifications will be required to station platforms to accommodate both types of trams. It should be noted that all European trams have a greater emphasis on standing rather than seated passengers. The carrying capacity of the new trams is approximately 180 with 64 seated. The current two car sets of the H-class trams have the capacity of 128 seated in cramped conditions and 60 standing. The new trams have 2 wheelchair spaces, the old trams have none. It is also important to note that the seating and standing configuration for these new trams is similar to the new Melbourne trams.
- 3.3. The trams have been inspected in Germany by DTUP and TransAdelaide officials with assistance from experts from the Victorian Department of Infrastructure who have contemporary experience in modern tram technology. The inspection included discussions with the operators in Frankfurt (vgF) and negotiations at the factory site in Bautzen. vgF is the municipal operator in Frankfurt and it states that the trams are highly reliable and incur very low maintenance.
- 3.4. To minimise cost and ensure delivery times, modifications to the tram design and features need to be kept to a minimum. Following discussions in Bautzen, some modifications were considered to be essential, these included;
 - Increase the cooling capacity of the airconditioning system to meet conditions in Adelaide,
 - Install a next stop call button system (Frankfurt trams stop at every station),
 - Add two additional ramps for access for people with mobility impairments.
 - Add CCTV cameras for safety reasons.
 - Add flange lubrication system.
 - Adjustment in spare parts and special tooling

Although some savings have been achieved by deleting non-required or non-essential items some significant issues have been highlighted as detailed above and the addition of the hedging option, have resulted in an additional overall cost of \$1.50m. The revised total price is \$47.4m (GST exclusive), which includes an allowance of \$1.57m for spare parts and special tooling. As indicated in 2.11 my Department will seek to absorb this increase within the total project cost of \$71.9m

3.5. Delivery of the first tram is still scheduled for December 2005, subject to the contract being signed by the end of August, with the delivery of the last tram due in April 2006. The first tram will probably take two to three months to come into service as extensive testing on the renewed infrastructure and safety checks will be required.

3.6. Economic, financial and budgetary implications

Required resources

3.6.1. The budget for the tram procurement and infrastructure works was established at \$71.9m in the 2004/05 Budget. The notional price for the trams was set at \$45.9m and the infrastructure at \$26m with the prospect that if the costs of the tram purchase exceeded this amount then economies would be sought through winding back the infrastructure expenditure.

3.6.2. Discussions have been held with Bombardier to determine the extent of any discount to the capital cost which might apply if Bombardier was awarded the maintenance contract. In summary Bombardier is offering a saving of \$1.1m on the capital cost but its maintenance quote represents a premium of \$0.38m /annum over TransAdelaide's costs. The use of Bombardier for maintenance could be expected to generate considerable industrial disputation affecting TransAdelaide. It could also raise suggestion of Government privatisation of tram maintenance. It is not proposed to use Bombardier for maintenance given that there is no financial benefit and there are also possible industrial and/or political issues. Bombardier have confirmed that the use of TransAdelaide for the maintenance, during the warranty period, will not invalidate the warranty as long as the proposal put forward with the tender is adhered to.

3.6.3. The supply only option has a capital cost of \$ 47.4m or \$5.267m per tram. This price includes a provision of \$1.3m for spare parts and special tools. The supplier also will be expected to provide all training, including training for maintenance, driver training and written procedures and manuals and TransAdelaide may still be required to engage specialist technical advice from Bombardier.

3.6.4. Bombardier has sought a considerable amount of the purchase price up-front, this is consistent practise in this type of industry, during the manufacturing phase of the trams. The outline of the proposal is as follows;

30% at contract initiation

30% after 135 days

30% after 195 days

1/9 of 10% as each tram is accepted

The progress payments are secured with advance payment guarantee in the same amount as the progress payment issued by an approved bank on unconditional terms.

3.6.5. Revised Project Expenditure Profile based on a purchase price of \$47.4m

ADELAIDE LIGHT RAIL – TRAM PROCUREMENT

BUDGET IMPACT

	2004-05	2005-06	2006-07	Total
	\$M	\$M	\$M	\$M
Approved Budget				
Purchase of Trams	20.000	20.600	5.300	45.900
Provision of Infrastructure	24.800			24.800
Total Approved Budget	44.800	20.600	5.300	70.700
Revised Budget				
Purchase of Trams	42.660	4.740		47.400
Provision of Infrastructure	10.000	13.570		23.570
Total Approved Budget	52.660	18.310	0.000	70.970
Budget Impact	-7.860	2.290	5.300	-0.270

3.6.6. Cabinet should be aware that the tram price has been subject to currency fluctuations. The original price, although quoted in Australian Dollars (AUD) was based on the imported component being priced out of Germany in Euros. The exchange rate of 17 December 2003, which has been used by Bombardier as the basis of quoting prices was 0.5923 Euros to the Australian Dollar. While a hedging option has been taken out, based on advise from SAFA, to put a floor under the exchange rate, at 1 AUD = 0.5715 Euros, as a risk management measure (at a cost of \$579,000 to the project) variation in the rate above the floor will effect the final price. SAFA advises that a one cent fluctuation in the exchange rate adds or subtracts approximately A\$676,000 to/from the tram price. For example if the current exchange rate of 1 AUD = 0.5824 Euros, were to apply then this would add an additional \$631,725.00 to the cost. Once the contract is signed the risk of managing currency fluctuations transfers to Bombardier.

3.6.7. The infrastructure expenditure has been pruned to \$23.57m and will be the subject of a separate Cabinet submission once details have been finalised.

3.7. Staffing implications

3.7.1. TransAdelaide estimates that only 2 of the currently employed 11 maintenance staff would have the necessary skill and qualifications to be suitable for training to service and maintain the new trams. Additional staff would have to be recruited, either from other areas of TransAdelaide or externally, and they will need to receive specialist training. Initially two with a further one full time and one part time, as maintenance demands increase, will need to be recruited. If this staffing estimate is correct then approximately 9 current employees will be surplus to requirements and will need to be either offered employment elsewhere in TransAdelaide or offered a voluntary redundancy package. To ensure the warranty is not impacted or placed at risk it is important that at least one key person be trained in Europe and a supervisor from Bombardier be brought to Adelaide to oversee the key maintenance activities over the warranty period.

3.7.2. The number of drivers and conductors required is also expected to diminish with fewer trams in service and only one conductor being required for each new tram instead of two in a coupled set of the H-trams. The actual numbers required is yet to be accurately determined because the nature and the frequency of the eventual heritage tourist service of the 5 retained H-class trams has not been decided. However, as a working estimate it is assumed that driver and conductor numbers will reduce between 10 to 15 employees depending on frequency of services of the new trams and per above re H-class trams. These personnel also will have to be offered voluntary redundancy packages or alternative employment in TransAdelaide. TransAdelaide has extensive experience in the management of redeployees and industrial relations refer to 3.9.2 for further information on the approach to manage this key issue.

3.7.3. The new tramcars are much more complex vehicles to drive and it is essential that the drivers are given adequate familiarisation and training. This is especially important to avoid any industrial action when the new vehicles are introduced (as has happened elsewhere). Consequently it is proposed to send two drivers to Germany in advance of the delivery of the trams, as part of a familiarisation process and train the trainer program. A mock-up of the driver's cabin is also proposed to be established at Glengowrie.

3.8. Impact on the community and the environment

Impact on the Families and Society

3.8.1. The immediate impact of this project will be that people with mobility disabilities will be able to use the tram service. The low floor trams will also be more accessible for prams, pushers, shopping trolleys and bicycles.

3.8.2. The Disability Standards for Accessible Public Transport of the DDA, covering the infrastructure associated with public transport (i.e. train stations, bus terminals and interchanges) have been used in the development of the concept plan. The major provisions are:

- Seamless entry, new tram floor height will match that of the tram platform.
- Adjacent streets/local paths and roads linking tram platform access will comply with the prescribe gradients and surface treatments as per DDA,

- Other standards will be included in the design and construction (e.g. tactile pavement, appropriate signage, sheltering), and
- Additional ramps will be installed in the new trams to assist mobility impaired access, particularly at the “at street” stops in King William Street and Jetty Road.

3.8.3. Regulatory Impact

- The Rail Safety Regulator has been consulted on the technical characteristics and performance of the proposed vehicle.
- The vehicles will have to undergo rigorous testing on the Glenelg tramway before being accepted into service.
- No planning approvals are required
- The purchase of the trams will assist South Australia comply with the requirements of the DDA.

3.8.4. Regional Impact

There is no regional impact.

3.8.5. Impact on Small Business

The combined effect of new trams and improved infrastructure is anticipated to increase patronage, which may increase residential density along the tramway and attract more people to both Glenelg and the CBD. As the trams are fully manufactured in Europe there is no opportunity for small business involvement in the manufacture of the trams. The infrastructure upgrade element of this project offers significant opportunity for small business involvement.

3.8.6. Environmental Impact

The project will have a positive effect on the environment, by:

- Remediating the current contaminated ballast associated surface soil, by either cleaning or removal to an accredited dumping facility.
- Reducing noise levels inside the tram giving more passenger comfort.
- Reducing noise levels external to the tram arising from the technical characteristics of the new trams and from the up-graded infrastructure.
- Encouraging increased passenger use with subsequent decrease in private car use, traffic congestion and greenhouse effects.

3.9. Risk Management Strategy

3.9.1. The financial risk management strategy is embodied within the terms of the Agreement to Supply Tramcars and Support Services. The key risks and associated mitigation strategies are as follows;

- Financial soundness of the supplier – due diligence assessments have been undertaken of both Bombardier Transportation Australia and Bombardier Inc (Montreal),
- Ability to deliver – parent guarantees have been obtained from Bombardier Inc to back the obligations of Bombardier Australia,
- Security of progress payments – unconditional Advance Payment Bonds will be issued to the Government of a value equal to any Progress Payments made, and Payment milestones are to be subject to independent verification before payment,

- Security of the Advance Payment Bonds – Issued by a bank rated by Standard and Poors at least A+ by SAFA,
- Warranty not secured – Bombardier to provide unconditional bank guarantee to the value of 5% of contract price during the warranty period,
- Trams not delivered by December 2005 – A delivery schedule for the 9 trams has been established with liquidated damages of 0.05% of the value of a tram, per tram per day, for late delivery.

3.9.2. There are other possible risks and the mitigation strategies as follows;

- Industrial issues associated with drivers not being familiar with the new tram cabin and control layout — two drivers to be sent to Germany to familiarise themselves with the new tram and become driver trainers, and TransAdelaide to continue consultative processes with employees and Unions.
- For staff no longer required for the operation or maintenance of the new Trams, TransAdelaide will either explore the opportunity for Targeted Voluntary Separation Packages for those who request them or provide assistance to the staff in finding employment in other areas within TransAdelaide or other parts of the Public Service. In this regard TransAdelaide has considerable experience and have established a process, which has proved successful in managing the redeployees resulting from the loss of the bus business. This process reduced redeployees from 153 in April 2001 to 8 by June 2004.

The Industrial Relations risk will be managed by TransAdelaide through regular consultation and negotiations with the Unions and in the discussions on the pending EBA agreement.

- Public rejection of the new trams because of fewer seats through a communication strategy, stress the positive characteristics of the new trams and make it clear that there are fewer seats; increase the frequency of services. The seating arrangements are comparable to the new trams in Melbourne.

3.9.3 Capping of Liabilities

Bombardier will not accept unlimited and/or uncapped liabilities and the outcome of negotiations has enabled the Public Liability and Product Liability to be increased from the specified insurance level of \$30m to \$75m and Bombardier will indemnify for professional indemnity (PI) claims to the required value of \$10m. A risk assessment has been undertaken on this project and the risk of an event occurring which would exceed \$75m is deemed to be low. The proposal seeks to cap liabilities for public and product liabilities to \$75m but liability arising from death or personnel injury is uncapped and/or unlimited liabilities stand.

3.10 Consultation

- The Crown Solicitor's Office has drafted all the documentation,
- SAICORP has been consulted on all insurance matters in the Agreement to Supply Tramcars,
- The Department of Treasury and Finance has provided advice on budgetary and financial risk matters and has been part of the evaluation process,
- SAFA has provided advice on financial securities and hedging,
- The State Supply Board has endorsed the procurement strategy and provided an observer during the tender evaluation process,
- TransAdelaide has assisted in the technical evaluation,
- Office of Passenger Transport has been part of the evaluation process, particularly on technical aspects,
- Transport Services of DTUP has been consulted in respect of traffic flows and rail crossings, and
- An independent probity advisor from the private sector assisted the process.

3.10. Implementation Plan

3.10.1. Once Cabinet approves of this proposal, the Agreement to Supply Tramcars and Support Services will be appropriately forwarded for the Minister's signature and seal. The Agreement contains a number of conditions precedent. However, signing of the Agreement will enable Bombardier Transportation Australia to lodge the order with the factory in Germany. The contract will need to be signed prior to the end of August to ensure delivery of the first tram in December.

3.10.2. During the manufacturing process Bombardier is required to provide monthly reports on progress and independent verification is required before progress payments are made.

3.10.3. While the trams are being manufactured the tram infrastructure will be up-graded (the subject of a further Cabinet submission).

3.10.4. Bombardier anticipates shipping three trams at a time, with the first to arrive in December 2005, the last three in April 2006. The first three trams will undergo extensive testing for safety and compatibility with the infrastructure before being introduced into service. The testing process is expected to last for two to three months.

3.10.5. As the new trams are introduced into service, the H-class trams will be progressively withdrawn from service.

3.11. Communication Strategy

A communication and consultation strategy is being drawn up in DTUP to encompass both the upgrade of the infrastructure and the introduction of the new trams.

3.12. Executive Council

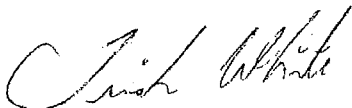
Not applicable.

4. RECOMMENDATIONS

It is recommended that Cabinet:

- 4.1. approve the Minister for Transport entering into an Agreement for the Supply of Tramcars and Support Services with Bombardier Transportation Australia Ltd for nine (9) new 70% low floor tramcars for the Glenelg to Adelaide City tram service to be delivered progressively between December 2005 and April 2006.
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- 4.9. note that I will return to Cabinet within two months with a separate submission detailing; (1) the human resources implications of the tram acquisition project on TransAdelaide and the State Budget; and (2) a proposed industrial relations strategy for dealing with this issue.



Trish White
MINISTER FOR TRANSPORT

12/8/2004

