

EDINBURGH TRAM (LINE TWO) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9A.2 of the Parliament's Standing Orders, the following documents are published to accompany the Edinburgh Tram (Line Two) Bill introduced in the Scottish Parliament on 29 January 2004:

- Explanatory Notes;
- an Estimate of Expense and Funding Statement;
- a Promoter's Statement; and
- the Presiding Officer's Statement on legislative competence.

A Promoter's Memorandum is printed separately as SP Bill 18-PM.

2. In addition to the accompanying documents published by the Parliament (referred to in paragraph 1 above), the following accompanying documents are published separately by the promoter:

- maps, plans, sections and a book of reference under Rule 9A.2.3(c)(ii);
- an Environmental Statement under Rule 9A.2.3(c)(iii); and
- an Assignment of Copyright/Licensing Agreement under Rule 9A.2.3(e).

EXPLANATORY NOTES

INTRODUCTION

3. These Explanatory Notes have been prepared by Bircham Dyson Bell on behalf of the promoter, The City of Edinburgh Council (“the Council”), in order to assist the reader of the Edinburgh Tram (Line Two) Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

4. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation, none is given.

BACKGROUND

5. The effect of this Bill is to authorise the construction and operation of a tram line in Edinburgh. The power to do this is to be given to the Council, which is referred to in the Bill as ‘the authorised undertaker’. The tram line will follow a western course, running from St Andrew Square along Princes Street to Haymarket, Murrayfield, South Gyle and the Airport, with a spur from Ingliston park and ride to Newbridge.

6. The Council could not construct and operate the tram line without obtaining various permissions, some of which it can only obtain by means of a Bill, and others of which could be obtained separately, but it is convenient for the Council, those authorising the powers and those affected by them if they are sought at the same time.

7. The main permissions that the Council requires are:

- those to acquire the land it requires for the construction and operation of the tram, compulsorily if necessary,
- planning permission, and
- permission to interfere with rights of way, both temporarily while building the tram line and permanently once it is built.

8. By being granted the powers by the Parliament, the Council will also be able to carry out the works without being liable for creating a legal nuisance. The Bill also deals with matters such as listed building consent.

9. The Bill is accompanied by several other documents and should be considered together with these. These “accompanying documents” are as follows:

- these Explanatory Notes, which set out the provisions of the Bill in non-technical language;
- an Estimate of Expense and Funding Statement, which sets out how much the project is expected to cost, and where the money is expected to come from;

These documents relate to the Edinburgh Tram (Line Two) Bill (SP Bill 18) as introduced in the Scottish Parliament on 29 January 2004

- a Promoter's Statement, which sets out how the Council authorised the promotion of the Bill, who has been notified about it, and how the Bill and all the accompanying documents can be inspected or bought;
- a Promoter's Memorandum, which sets out why the powers in the Bill are being sought;
- Parliamentary maps, plans and sections, which show in detail where the tram line will run and other details on a large-scale map, as well as vertical sections of the proposed tram line;
- a book of reference, which sets out all the parcels of land that are proposed to be acquired, both temporarily and permanently;
- an Environmental Statement, which is a document required by European legislation for large projects, and sets out the expected effects of both the construction and operation of the tram on the environment; and
- an Assignment of Copyright and Licensing Agreement, which is a short document transferring copyright in the Bill to the Scottish Parliament and related matters.

10. This Bill is being introduced at the same time as the Edinburgh Tram (Line One) Bill. Both Bills are drafted to stand alone, in the event that only one is passed by the Parliament. That is why there is a section of the tram line from St. Andrew Square to Haymarket that is common to both Bills. If both Bills are passed, there will still only be one section of the line from St. Andrew Square to Haymarket constructed.

THE BILL

Structure of the Bill

11. The Bill has been divided into Parts, each dealing with a separate area. Part 1 deals with the works, in other words what work will be carried out where. Part 2 deals with the acquisition of land and associated matters. Part 3 deals with penalty fares. Part 4 deals with the operation of the tram, Part 5 deals with miscellaneous powers that are being sought and Part 6 deals with miscellaneous aspects of the Bill.

Technical terms explained

12. Before embarking on an explanation of the provisions of the Bills, it would be helpful if certain technical terms were explained. The first is the difference between a 'tramroad' and a 'road tramway'. In this Bill, 'tramway' by itself is used to describe the tram lines wherever they are running. 'Road tramway' means that part of the tramway that is running along a road, and 'tramroad' means the rest of the tramway, i.e. that part that is running off the road on its own exclusive line. For 'limit of deviation' see the explanation to section 2, and for 'stopping up' see the explanation to section 6. For an explanation of how planning permission is dealt with, see the explanation to section 70.

COMMENTARY ON SECTIONS

Part 1 – Works

13. The first Part of the Bill deals with the ‘works’, in other words what work is to be authorised to construct the tram line. The sections follow a fairly standard pattern for authorising trams which before the advent of the Scottish Parliament was done using the Private Legislation Procedure (Scotland) Act 1936 and in England and Wales is done by means of orders under the Transport and Works Act 1992.

Section 1 – Power to construct works

14. The first section of the Bill sets out the work that is to be authorised, divided into separate ‘works’. Without it, the works would not be authorised and the Council could be sued in nuisance if it attempted to carry them out. It is important for the viability of the scheme that the Council is not subject to such challenges.

15. Subsection (1) authorises the construction of the works described in schedule 1 to the Bill (the schedules follow the main parts of the Bill). Note that if the Bill is passed, not every part of every work must be constructed – the Bill only gives optional powers to the Council. It authorises the maximum extent of the works that will be required for the construction of the tram line to avoid the Council having to return to the Parliament for permission to construct further works.

16. Subsection (2) requires the works to be constructed exactly as shown on the plans that accompany the Bill, with the proviso that they can vary (‘deviate’) according to section 2.

17. Subsections (3) and (4) allow the Council to carry out work other than that specified in schedule 1, as long as it is either done within the limits of deviation (see the note for section 2 for an explanation of this term) or within land specified in schedule 6. In the latter case it may only be used for the purpose given in schedule 6. Subsection (3) gives a list of typical works that will be undertaken, and subsection (4) allows any other types of work to be carried out as long as they are for the purposes of or in connection with constructing the tram line. The limit of the land described in schedule 6 is known as the ‘limit of land to be acquired or used’.

18. Subsection (5) allows the removal of the works should the tram line no longer be required at some point in the future.

19. Subsection (6) allows the Council to allow others to share any ducts or conduits it lays under the road.

20. Subsection (7) sets out the restriction on where the additional works allowed by subsections (3) and (4) may be carried out.

Section 2 – Power to deviate

21. It is common practice to introduce a certain amount of flexibility in where the works may be constructed, otherwise the Bill would be impracticably strict. If the works had to be

constructed along the centre lines indicated on the plans, then the slightest alteration that might be required would mean that the works were being constructed contrary to the authorisation. This section sets out the extent to which the works can deviate from the centre lines shown on the plans. In lateral terms, the works can deviate within lines that have been drawn on the plans called 'limits of deviation'. In vertical terms, the works can deviate up to three metres upwards and to any extent downwards. There is to be one exception to the upward limit of deviation, to the west of Haymarket Station, where the line can deviate up to ten metres upwards. Subsection (1) sets out these limits of deviation.

22. Subsection (2) allows flexibility in laying down single or double lines despite what is shown on the plans, although according to subsection (3) any change from the plans of this nature must be authorised by the road works authority.

23. Subsection (4) makes it clear that sidings can be built for tramroads without being shown on the plans as long as they are within the limits of deviation.

Sections 3 to 12 and 14 – Roads

24. Eleven of the next twelve sections deal with the single subject of roads. This is because even the slightest interference with the public's right to pass along a road cannot be done without permission. Not only will the construction of the tram line require breaking up the road, installing equipment in it and leaving it there (all of which are interferences with the right to pass along the road), but in many cases the road layout will need to be reconfigured (either by raising or lowering the road level, or altering its course or shape) because the tram line is passing along or across it. All these types of work to roads are set out in separate sections. In this Bill, 'road' includes footpaths and cycletracks, because the definition of road that is used is the same as in the Roads (Scotland) Act 1984. The sections frequently refer to the 'roads authority' or the 'road works authority'. The 'roads authority' is the Council with respect to all public roads except trunk roads, and Scottish Ministers in the case of trunk roads. The 'road works authority' is the roads authority in the case of public roads and the road managers in the case of a private road.

Section 3 – Power to alter the layout of roads

25. This section is primarily concerned with alterations to the shape of roads – the widening or narrowing of the footway or carriageway to accommodate the road. This cannot be done without permission as it will alter the right to pass along the road. The principle is that the alterations to road layouts that are specifically set out in schedule 2 will be able to be carried out without further ado if the Bill is passed. Any other alterations to road layouts (should it later turn out that a certain kerb line needs to be aligned differently, for example) set out in subsection (2) can be carried out, but only with the consent of the roads authority.

26. Subsection (4) ensures that altering the kerblines and layouts of roads thereby alters the right to pass along the road for pedestrians and vehicles, otherwise for example if a kerbline was extended, vehicles would still technically be allowed to drive or park up to the original kerbline.

Section 4 – Power to keep apparatus in roads

27. The mere keeping of apparatus such as a pole or tram track in the road is an interference with the public right to pass along it – the public will not be able to walk or drive across that part

of the road that is to contain a pole, for example. This section authorises the apparatus associated with the tram to be kept in or on the road. Subsection (1) sets out the right and subsection (2) defines some of the terms used.

Section 5 – Power to execute road works

28. Section 4 is not enough by itself to allow a pole or other apparatus to be placed in the road, as during the period that the apparatus is being placed there, more of the road will need to be occupied temporarily, or will otherwise be unavailable for passing along. This section authorises the construction in a road to take place. Subsection (1) sets out the right to execute road works and subsection (2) refers to paragraph 3 of schedule 9, which requires works in certain roads in the control of other bodies only to be carried out with the consent of the controlling body.

Section 6 – Permanent stopping up of roads

29. ‘Stopping up’ is a technical term to mean cancelling the public right to use a road. In some cases the construction of the tram line will mean that a road must either be diverted, or in a few cases stopped up altogether. The usual legal practice is not to refer to a road being diverted, but to say that it is being stopped up and a substitute (the diversion) is being provided. If a road is being stopped up altogether, then it is described as a stopping up with no substitute being provided.

30. Section 6 authorises the permanent stopping up of roads listed in schedule 3. The schedule is divided into three parts. Part 1 sets out the roads that are proposed to be stopped up with a substitute being provided, Part 2 sets out the roads that are proposed to be stopped up to vehicular traffic only, and Part 3 sets out the roads that are proposed to be stopped up without a substitute being provided.

31. Subsection (1) sets out the main right to stop up roads listed in schedule 3. Subsection (2) requires that where a substitute is to be provided, that the substitute is open before the original road is closed, or at least there is continuous temporary running to the satisfaction of the roads authority.

32. Subsections (3) and (4) provide that one of a set of conditions must be satisfied before a road can be stopped up with no substitute provided. This is to ensure that no-one whose land abuts that road is prevented from accessing that land.

33. Subsection (5) formally extinguishes the right of passage over the road when it is stopped up and allows the Council to use it.

34. Subsection (6) provides that anyone who suffers loss from the extinguishment or suspension of a private right of way is entitled to compensation using the standard methods of assessing compensation and resolving disputes.

35. Subsection (7) deals with public utilities that may have equipment in the road that is to be stopped up and allows it to be diverted, with the expense to be shared by the utility and the Council according to standard provisions.

Section 7 – Temporary stopping up of roads

36. This section is similar to section 6 except that it only covers roads that are to be stopped up temporarily during the construction of the tram line, and restored once the construction is complete. In this case there is a general power to stop up roads temporarily in subsection (1), and a specific power to stop up roads in schedule 4 temporarily in subsection (4).

37. Subsection (2) allows the stopped-up road to be used as a temporary working site.

38. Subsection (3) requires the Council to provide reasonable pedestrian access to properties abutting a road that has been temporarily stopped up.

39. Subsection (5) provides that in order to exercise the general power in subsection (1), the Council must obtain consent from the road works authority, whereas for the roads specifically set out in schedule 4, it only need consult the road works authority.

40. Subsections (6) and (7) import standard provision relating to road works from the New Roads and Street Works Act 1991. This means that the standard provisions will apply and also means that they do not need to take up space by being restated in this Bill.

Section 8 – Access to works

41. Some parts of the tram line will not be on the public road – there is a large stretch beside the Edinburgh-Glasgow railway line between Haymarket and South Gyle, for example. The Council will need to be able to reach the tram line from public roads for construction purposes, and after the line has been built, maintenance purposes. This section allows this to happen within the limits of deviation.

Section 9 – Construction and maintenance of new or altered roads

42. Should the Bill involve the construction of a new road or the alteration of an existing one, this section ensures that it will be done to a standard acceptable to the roads authority. It also provides that the Council as undertaker will be responsible for maintaining the new or altered road for a year or two years respectively, after which time it will be treated as any other road. Bridges and tunnels are not covered by this section, but by the next section.

43. Finally, subsections (4) and (5) ensure the continued operation of the New Roads and Street Works Act 1991, which deals with road works.

Section 10 – Construction of bridges and tunnels

44. As they are such complex constructions compared with other road works, this section specifically provides that the roads authority must approve the plans and specifications for bridges and tunnels that are required for the tram line.

Section 11 – Restoration of roads if tramway discontinued

45. Just as the works to roads for the purposes of building the tram system must be carried out to the satisfaction of the roads authority, should the tram system no longer be required at some point in the future, then its removal must also be carried out to the satisfaction of the road works authority. Section 11 requires the works and other apparatus to be removed from the road when no longer required, and that this be done to the satisfaction of the road works authority.

Section 12 – Agreements with roads and road works authorities

46. As undertaker, the Council will not have any powers that are not specifically given to it. This section allows it to enter into agreements with the roads authority and road works authority that are associated with the works to roads that are set out in this Bill. As an example, the undertaker may agree with the road works authority that the latter carries out the works rather than the former (which will then necessarily mean that they are done to the latter's satisfaction), and such an agreement may involve payment or not.

47. Subsection (1) sets out the types of agreements that may be made, and subsection (2) provides that the agreement may involve delegation of work to the road works authority and payment.

Section 13 – Agreements with Network Rail and the Strategic Rail Authority

48. In the same way that the Council is permitted to enter into agreements with the roads authority and road works authority under the previous section, it is able to enter into agreements with Network Rail, the organisation responsible for the national railway infrastructure, and the Strategic Rail Authority, which has inherited the residual powers of the British Railways Board, although under this section the scope of such agreements is restricted to the transfer of disused railway land and associated works and property.

49. If such land is transferred to the Council, by subsection (2) it may then adapt it for use as part of the tram system.

Section 14 – Level crossings

50. Although the construction of the tram line across a road at the same level is an interference with the right to use the road and could therefore be covered by the more general rights to carry out road works above, level crossings are of a special nature and it is convenient to identify them separately and set out the particular powers that will apply to them alone.

51. The crossings are set out in schedule 5, and section 14 provides that barriers can be constructed in association with the crossing, and that the level of the road that is being crossed can be altered to accommodate the tram line.

52. Subsection (1) sets out the scope of the section, namely to the level crossings listed in schedule 5.

53. Subsection (2) authorises the use of barriers or other protective equipment, as long as they are approved by Scottish Ministers.

54. Subsection (3) provides for traffic signs placed in connection with the level crossing to be treated as if they were traffic signs placed under the Road Traffic Regulation Act 1984.

55. Subsection (4) gives special permission to alter the level of roads (over and above the general power in section 3) with respect to level crossings.

56. Subsection (5) allows the Council as undertaker to enter into agreements with the roads authority with respect to the subsequent maintenance of the level crossing. Subsection (6) defines certain terms.

Section 15 – Attachment of equipment to buildings for the purposes of works

57. A tram system involves overhead wires that transmit electricity to the vehicles. This section allows wires etc. to be attached to neighbouring buildings rather than fixed to poles in the road, which reduces clutter in the road. There are special provisions for attaching apparatus to listed buildings, set out in section 68. The question of planning permission for attachments (to any building) is dealt with by section 70.

58. Subsection (1) sets out the general power to attach equipment to buildings. Subsection (2) requires the Council to give 28 days' notice to the owner of the building. This and the following requirements are based on provisions in the Roads (Scotland) Act 1984 to attach road lighting to buildings.

59. Subsection (3) provides a mechanism where the owner of the building can object to the attachment by applying to the sheriff, who shall decide the matter.

60. Subsection (4) deals with works that might be required to the building (for reasons unconnected to the tram) that might affect the attachment. It allows the owner to give at least 28 days' notice to the Council to remove the attachment during the reconstruction or repair of the building. The subsection also asserts the right of the Council to maintain the apparatus.

61. Subsection (5) entitles the owners and occupiers of the building to compensation for the attachment and maintenance of it, in accordance with the usual provisions for determining the amount of compensation and disputes about compensation.

62. Subsection (6) defines some terms used in this section.

Section 16 – Discharge of water

63. The Council must be able to drain the tram works effectively, both during construction and operation. Subsection (1) allows the use of watercourses and drains for this purpose and the connection with them (within the limits of deviation and limits of land to be acquired or used – see sections 1 and 2) to be made.

64. Subsection (2) requires consent to be sought from the authority responsible for the watercourse, sewer or drain before a discharge can be made, but such consent not to be withheld unreasonably.

65. Subsection (3) requires the Council as undertaker to seek approval for plans for any opening into a sewer or drain from the authority responsible for it, again such approval not to be withheld unreasonably.

66. Subsection (4) requires the Council as undertaker to take reasonable steps to ensure that any discharge of water into a watercourse, sewer or drain is not contaminated. In practice this will mean consultation with the authority responsible for the watercourse, sewer or drain about means of filtration etc.

67. Subsection (5) brings discharges into controlled waters under this Bill within the Control of Pollution Act 1974 (which normally exempts provisions of private Acts from criminal proceedings for polluting discharges).

Section 17 – Safeguarding works to buildings

68. This section covers the situation where the installation, operation or maintenance of the tram works may threaten or damage buildings lying within the limits of deviation (see section 2).

69. Subsection (1) allows the Council as undertaker to carry out such works as it thinks necessary or expedient, at its own expense.

70. Subsection (2) gives a time limit for the operation of this section: from before the construction to five years after the relevant part of the line is open for use.

71. Subsection (3) allows the Council to enter buildings for them to be surveyed to decide whether any works are necessary under this section.

72. Subsection (4) additionally allows the Council to enter the relevant buildings to carry out the works, and also enter any land adjacent to the building (although not any building on such land).

73. Subsection (5) provides that except in cases of emergency, the Council must give 14 days' notice to the owners and occupiers of any building or land it proposes to enter or carry out works to under this section.

74. Subsection (6) allows the owner or occupier to serve a counter notice within 10 days' of receiving notice from the Council that means that the question of whether the entry or the works are necessary or expedient is referred to arbitration under section 76.

75. Subsection (7) requires the Council to compensate owners and occupiers for loss or damage sustained under the provisions of this section.

76. Subsection (8) additionally entitles the owners and occupiers to compensation for any damage sustained should any works carried out under this section prove inadequate. This entitlement only operates during the same time limit as in subsection (2).

77. Subsections (9) and (10) assert the continued operation of the standard compensation provisions for settling disputes and deciding the amounts of compensation.

Section 18 – Power to construct temporary tramways

78. This section gives power to the Council as undertaker to divert the tram onto a temporary tramway should the road on which the tramway is normally laid be subject to road works (not necessarily connected with the tram).

79. Subsection (1) gives the principal power to remove or discontinue the normal route of the tram and lay, maintain and operate the temporary route.

80. Subsection (2) require the consent of the roads authority (not to be withheld unreasonably).

81. Subsection (3) applies the power to control traffic by means of signs to temporary tramways under this section in the same way as it applies to the permanent tramway.

Section 19 – Power to survey and investigate land

82. This section gives a general power to enter land for the purposes of surveying or investigating it. The detail of the exercise of the power is set out in the following paragraphs.

83. Subsection (1) sets out the extent of the power, which is to enter onto land within the limits of deviation to survey or investigate it, which can include making trial holes in the land and taking away soil samples, protecting flora and fauna and carrying out archaeological investigations. Apparatus for this purpose may also be placed, left and removed.

84. Subsection (2) requires the Council to give at least seven days' notice the first time it contacts an owner under this section, and three days' notice subsequently, whenever it intends to exercise the powers in subsection (1).

85. Subsection (3) requires those exercising the power of this section to provide identification, and allows them to bring vehicles and equipment onto the land.

86. Subsection (4) requires the consent of the road works authority (not to be unreasonably withheld) before trial holes can be made in a carriageway or footway.

87. Subsection (5) imports the usual compensation regime for any damage sustained by owners and occupiers under this section.

Section 20 – Mode of construction and operation of tramway

88. This section provides that the tramway will be run on electricity, or in emergency by other means, and that it will be at a gauge of 1435 millimetres.

Section 21 – Obstruction of construction of tramway

89. This section makes it an offence to interfere with the construction of the tramway without reasonable excuse. The only penalty can be a fine of up to £1000.

Part 2 – Land

90. This Part of the Act deals with the acquisition of land and associated provisions. One of the principal powers sought by the Council is the ability to acquire land compulsorily for the purposes of constructing, operating and maintaining the tram. Given the nature of a compulsory power to acquire land the limits of the power must be set out very specifically and the exercise of the power is subject to strict controls. The only land that can be acquired is any land that is either within the limits of deviation (see section 2) or the limits of land to be acquired or used (see section 1). The parcels of land and their owners must also be described in a separate document known as the book of reference, which accompanies the Bill, and may be inspected or purchased as set out in the Promoter's Statement. The owners are also required to be notified in advance of the introduction of the Bill.

91. The land acquisition provisions in this Part are standard ones wherever possible to ensure that the procedure is familiar and fair and satisfies human rights. The Bill imports standard requirements as to the acquisition procedure and the assessment of compensation (i.e. how much the owner receives for having the land taken away).

92. The standard procedure (under the Lands Clauses Consolidation (Scotland) Act 1845) involves the service of a special notice known as a 'notice to treat'. This indicates that the undertaker intends to acquire the land and is offering to deal with the owner to agree compensation. The undertaker can enter the land before the compensation is agreed and the land has been formally transferred to it by serving a 'notice of entry'. If the landowner is unwilling to sell the land or cannot be traced then the undertaker can acquire the land by executing a deed, which in the compulsory purchase legislation is known as a 'notarial instrument'. Alternatively the landowner can agree to sell the land – the compensation that will be paid is the same.

93. The procedure for assessing compensation (under the 1845 Act referred to in the previous paragraph and the Land Compensation (Scotland) Act 1963) is the standard one used for compulsory purchase orders. In simple terms, if there is a dispute about the amount, it is referred to the Lands Tribunal for Scotland, a specialist tribunal for dealing with such disputes.

Section 22 – Power to acquire land

94. This is the principal land acquisition power. Subsection (1) allows the Council as undertaker to acquire any land within the limits of deviation or limits of land to be acquired or used and specified in the book of reference, for the purposes of the works, and also to use the land for those purposes or connected purposes.

95. Subsection (2) states that the power is subject to a time limit set out in section 38 and is supplemented by a power to enter land temporarily set out in section 25.

Section 23 – Powers to acquire new rights

96. Rather than acquire the whole of some land, the Council may only need to acquire rights over land (in other words it will not own the land afterwards, but just have a certain right over it, such as to enter the land to maintain the tramway). This not only saves on the compensation payable but means that landowners are not deprived of their land unnecessarily.

97. Subsection (1) allows the acquisition of rights over land subject to the same geographical limits and time limit as the general power in the previous section.

98. Subsection (2) allows the creation of new rights (e.g. a right to cross land that was not there already) as well as the acquisition of rights already in existence (e.g. a right to cross land that was there already).

99. Subsection (3) provides that the Council need not acquire more than it wants to under this section. The main acquisition power is subject to a provision where the owner can require the Council to acquire more than it wants to in some circumstances – see section 32.

100. Subsection (4) is a consequence of subsection (3) – section 90 of the 1845 Act is about acquiring more land at the request of the owner.

101. Subsection (5) applies the Lands Clauses Acts (the standard clauses about compulsory acquisition) to the land subject to compulsory purchase under this Act.

Section 24 – Rights under or over roads

102. This section allows land above or below the surface of a road shown in the Book of Reference as required for the works to be entered upon and used without being acquired. This is provided for by subsections (1) and (2).

103. Subsection (3) provides that the Council does not need to pay compensation in respect of loss suffered by exercise of the powers conferred by this section where the road in question is a public road.

104. Subsection (4) excludes from the provisions of subsections (2) and (3) land that is a subway, underground building, cellar, vault or part of a building fronting the road.

105. Subsection (5) is a technical provision that means that the right to use the road provided by this section overrides other rights, notwithstanding that it has not been recorded as a right in land in the Register of Sasines or registered as a right in land.

Section 25 – Temporary use of land for construction of works

106. While section 22 allows land to be acquired permanently, this section allows land to be occupied temporarily while the works are being constructed and given back again. Any land affected by this power must be listed in schedule 7.

107. Subsection (1) sets out the main right to enter and possess the land in schedule 7 temporarily, remove buildings and vegetation from the land, and construct temporary works and buildings on it.

108. Subsection (2) requires the Council to notify the owners and occupiers of its intention to enter the land not less than 28 days before it does so.

109. Subsection (3) restricts the Council from remaining in possession of the land by setting a time limit of one year after the work or works listed in column 4 of the schedule next to each parcel of land are completed.

110. Subsection (4) provides that the Council must restore the land to the reasonable satisfaction of its owner before returning it, but need not replace a removed building.

111. Subsections (5) and (6) apply the usual compensation regime to any loss or damage arising from temporary possession under this section.

112. Subsection (7) provides that compensation shall still be payable for loss or damage arising from the construction of the works provided that it is not being paid twice for the same loss or damage.

113. Subsection (8) makes it clear that the Council cannot be required to acquire the land in schedule 7 permanently.

Section 26 – Temporary use of land for maintenance of works

114. This section provides an additional power to enter and take temporary possession of land for maintenance to be carried out to the works. The land that is covered is land within 20 metres of the work, provided that it is reasonably required to maintain the work or ancillary work, or secure its safe operation.

115. Subsection (1) sets out the principal right to enter such land, take temporary possession of it and construct temporary works.

116. Subsection (2) prevents the powers of this section from being exercised with respect to a house, garden of a house or building in occupation.

117. Subsections (3) to (9) are similar (but not identical) to subsections (2) to (8) of the previous section. Subsection (3) requires the Council to notify the owners and occupiers of its intention to enter the land not less than 28 days before it does so.

118. Subsection (4) restricts the Council from remaining in possession of the land by specifying that possession can only be while the land is needed for the maintenance works.

119. Subsection (5) provides that the Council must restore the land to the reasonable satisfaction of its owner before returning it.

120. Subsections (6) and (7) apply the usual compensation regime to any loss or damage arising from temporary possession under this section.

121. Subsection (8) provides that compensation shall still be payable for loss or damage arising from the construction of the works provided that it is not being paid twice for the same loss or damage.

122. Subsection (9) makes it clear that the Council cannot be required to acquire land under this section permanently.

Section 27 – Power as to acquisition and use of additional lands

123. In addition to the power to acquire land compulsorily under section 22, the Council may acquire land with the agreement of the owner for specified purposes (and if the normal compulsory purchase procedure is followed, compulsorily).

124. Subsection (1) lists the purposes: relocating people or industry away from the limits of deviation (see section 2); providing substitute recreational land or allotments; forming junctions between the works and any road or way; and executing, improving or maintaining the works.

125. Subsection (2) allows such land to be acquired compulsorily with the authorisation of Scottish Ministers. In other words the Council as undertaker may apply for a compulsory purchase order for the purposes listed in subsection (1) in the same way that other public bodies have compulsory purchase powers. This differs from section 22 because section 22 is effectively a compulsory purchase order, whereas this section merely gives the Council the power to apply for a compulsory purchase order.

126. Subsection (3) allows the Council to use land acquired under this section for the purposes listed in the section and also for the purposes listed in section 1(3).

Section 28 – Power to retain, sell, etc., lands

127. This section gives the Council full powers to sell, lease etc. land it has acquired under this Bill, although money earned from such sales, leases etc. can only be used for purposes to which capital is applicable.

Section 29 – Disregard of certain interests and improvements

128. This section deals with the situation where a landowner, knowing that the land is to be compulsorily purchased under this Bill, deliberately improves it or otherwise increases its value to obtain more compensation. In such cases the landowner is not entitled to the increase in compensation that would have been payable.

129. Subsection (1) provides that the tribunal assessing compensation shall not take into account interests in land or enhancements of the value of interests in land that it is satisfied were done to obtain more compensation (or compensation at all, where none would have otherwise been payable).

130. Subsection (2) defines the land covered by this section as being any land acquired under the Bill or any other of their land.

Section 30 – Compensation in respect of depreciation in value of interest in land subject to a standard security

131. This is a standard technical provision to deal with the situation where land that has depreciated in value because of the powers conferred by the Bill is subject to a mortgage. In particular the value of the land may have fallen below the value of the mortgage – this section ensures that neither the landowner nor the lender lose out as a result of this.

132. Subsection (1)(a) provides that the value of the interest in land that is being acquired is first calculated as if it were not subject to a mortgage.

133. Subsection (1)(b) provides that the lender (called a ‘heritable creditor’ in this section) may make a claim for compensation provided that the mortgage was created before the depreciation in value. The landowner may still also make a claim under the standard compensation provisions.

134. Subsection (1)(c) provides that where there is more than one lender the compensation is paid in the same order as in the case of a sale of land – to the first mortgagee, then the next and so on.

135. Subsection (2) applies the section to older types of loan as well as modern standard securities.

Section 31 – Set-off against betterment

136. This section provides that if in addition to land acquired under the Bill, a landowner has other land that increases in value because of the Bill, through being more accessible, for example, then compensation for the lost land will be reduced by any increase in the value of the other land.

137. Subsection (2) makes it clear that if, for example, in constructing the tram adjacent land is made compatible with the Disability Discrimination Act, then the expenditure saved by the landowner should be included in the betterment calculation.

Section 32 – Acquisition of part of certain properties

138. This provision in essence allows a landowner to insist that the Council acquires all of certain types of land when it only intended to acquire part of it. This is so that the landowner is not left with inaccessible or otherwise unusable parcels of land – half a house, for example.

139. Subsection (1) states that this section replaces the standard provision of this type in the Lands Clauses Consolidation (Scotland) Act 1845. Note that it is standard for modern tram legislation to do this. The provision only applies where the Council has served a ‘notice to treat’ (see introduction to Part 2 above) with respect to land that is *part* of a house, factory or building

or part of a house and park or garden, and it has also served a copy of this section. If it does not serve a copy of this section, then section 90 of the 1845 Act would apply.

140. Subsections (2) and (3) give the owner 21 days to serve a counter-notice on the Council stating that the owner objects to the notice to treat and is willing to sell the whole of the land in question, otherwise the owner will have to sell the part only.

141. Subsection (4) provides that unless the Council agrees to acquire all of the land in question, the dispute shall be resolved by the Lands Tribunal for Scotland.

142. Subsection (5) sets out the criteria for the tribunal – if the part of the land can be taken without material detriment to the remainder, or in the case of a house and park or garden, without seriously affecting the amenity and convenience of the house, then the tribunal should rule that the Council need only acquire the part of the land.

143. Subsection (6) allows the tribunal to rule that an even smaller parcel of land should be taken, if that smaller part could be taken without material detriment to the remainder.

144. Subsection (7) allows the tribunal to rule that more than the part of the land that the Council wishes to acquire, but less than the whole that the owner wishes it to acquire, should be acquired.

145. Subsection (8) allows the tribunal to rule that all of the land the owner wishes the Council to acquire should be acquired. In each case (subsections (6), (7) and (8)), the notice to treat should be taken to include whatever land the tribunal has ruled should be taken.

146. Subsection (9) gives the Council the option of withdrawing the notice to treat if the tribunal rules against it, but it must still pay compensation for the giving and withdrawal of the notice.

147. Subsection (10) provides that if the Council acquires only part of one of the types of land set out in subsection (1), then it must also pay compensation for the severance of that part of the land from the rest.

Section 33 – Persons under a disability may grant servitudes, etc.

148. This provision applies in cases where certain people would not normally be able to sell land (usually because they are trustees) which is what ‘under a disability’ means. The Lands Clauses Consolidation (Scotland) Act 1845 remedies this to a certain extent, by allowing such persons to have land and existing rights in land acquired from them. In the absence of this section, and in reliance only on the 1845 Act, the Council would have to acquire the whole of the land in question should it require only a new right in land. This section therefore allows persons under a disability to grant servitudes, rights and privileges over their land. Subsection (2) applies associated provisions of the 1845 Act to grants of new rights under this section.

Section 34 – Extinction or suspension of private rights of way

149. By subsection (1), this section automatically extinguishes private rights of way over any land that is acquired by the Council, either at the point that is acquired, or when it is entered upon if that is earlier.

150. Subsection (2) extinguishes private rights of way over land that is ‘appropriated’ by the Council, meaning land that it already owned for some other purpose, but intends to use for the purpose of this Bill.

151. Subsection (3) suspends private rights of way temporarily over land that is occupied temporarily under the Bill.

152. Subsection (4) provides the usual entitlement to compensation for loss sustained by owners of private rights of way extinguished or suspended under this section.

153. Subsection (5) exempts from the scope of this section private rights of way owned by statutory undertakers (i.e. utility companies etc.).

154. Subsection (6) allows the Council to exempt a private right of way from this section if it wishes (i.e. that the right of way will continue to exist) if it gives notice to the landowner before the land is acquired or occupied, or makes some other agreement with the landowner.

Section 35 – Power of entry on lands compulsorily acquired

155. This section allows the Council to enter upon land provided it has (a) served a notice to treat on the owner and (b) served a notice of entry at least three months before the date of entry. For explanations of these terms see the introduction to Part 2 above. It excludes the provisions of sections 83 to 89 of the Lands Clauses Consolidation (Scotland) Act 1845 from this power. These sections contain various provisions about payment of compensation having to be done before entry, or otherwise deposited in a bank, otherwise penalties would apply.

Section 36 – Correction of errors in the Parliamentary plans and book of reference

156. This section allows mistakes in the plans or book of reference to be rectified by applying to the sheriff.

157. Subsection (1) sets out the principal power to apply to the sheriff to correct a mistake in the plans or book of reference, which the Council may do if it gives at least 10 days’ notice to the owner or occupier of the land that is the subject of the error that it intends to do so.

158. Subsection (2) provides that if the sheriff is satisfied that a mistake has been made, then that fact can be certified and the error set out in a certificate.

159. Subsection (3) sets out the formal requirements for depositing the correction properly. This must be done by supplying copies of the certificate to the Clerk of the Scottish Parliament,

the sheriff clerk and the solicitor to the Council. At that point the plans or book of reference shall be deemed to have been amended accordingly.

Section 37 – No double recovery

160. This section ensures that compensation cannot be paid twice for the same loss under this Act and any other obligation.

Section 38 – Time limit for exercise of powers of acquisition

161. This section sets a limit of five years for the exercise of compulsory purchase powers under sections 22 and 23 (the acquisition of land and rights in land respectively). The five years runs from the date that this Bill becomes an Act, and ‘the exercise of compulsory purchase powers’ in this context means the service of a notice to treat (see the introduction to Part 2 above).

162. Subsection (2) provides that temporary possession of land shall not be caught by this provision provided it started before the five-year limit.

Section 39 – Extension of time

163. This section allows the Council to apply to Scottish Ministers for an extension of the five-year period in the previous section. If Scottish Ministers agree to an extension, then it must go through the statutory instrument procedure, which means that it can be annulled by a resolution of the Scottish Parliament.

Section 40 – General vesting declarations

164. This section imports the ‘general vesting declaration’ procedure into the Bill. This is a compulsory acquisition procedure that is an alternative to serving notices to treat and notices of entry on every owner (for an explanation of these terms see the introduction to Part 2). The procedure is set out at Schedule 15 to the Town and Country Planning (Scotland) Act 1997. It is a more convenient way to acquire a large number of parcels in different ownership and involves sending preliminary notices of intention to execute a ‘vesting declaration’ and then the execution of the declaration, followed by notices stating that the declaration has been executed. At that point the declaration is treated as if it had been a notice to treat and also the Council as acquiring authority would have the power to enter and take possession of the land without serving notices of entry. Since this Schedule to the Town and Country Planning (Scotland) Act 1997 is normally applied to compulsory purchase orders rather than Private Acts, subsection (2) clarifies how the Schedule should be applied to this Private Act.

Part 3 – Penalty fares

165. Part 3 is a self-contained part of the Bill that authorises the issuing of penalties for failing to pay fares and the collection of the debts that arise from failure to pay the penalties set out in the notices.

Section 42 – Operation of Part 3

166. This Part of the Bill does not have effect until the Scottish Ministers have declared that it is in force by means of an order.

Section 43 – Penalty fares

167. This is the main provision about penalty fares. Subsection (1) provides that if a passenger fails to produce a fare ticket or other permission then that passenger is liable to pay a penalty fare if requested.

168. Subsection (2) provides that the passenger is excused if there were no facilities for paying for a ticket, or if the ticket is not stamped correctly because there were no facilities for stamping it.

169. Subsection (3) requires penalty fares to be paid within 21 days, and subsection (4) allows subsequent recovery of the amount to be treated as a civil debt (in other words the Council can go to court to recover the money).

170. Subsections (5) to (7) deal with the burden of proof in court proceedings for recovery of a penalty fare (i.e. whether the onus is on the Council (as pursuer) or the passenger (as defender) to prove their version of the facts). If the passenger is relying on subsection (2) and provides a statement of that fact (together with details of the circumstances) within 21 days of the penalty being incurred, then the burden of proof is on the Council to show that the facts do not fall within subsection (2). Otherwise the burden is on the passenger to show that the facts do fall within subsection (2).

Section 44 – Amount of penalty fare

171. The penalty fare shall be the greater of £40 or ten times the full single fare, being the fare from where the passenger boarded to the stop after the ticket was requested. This can be increased by an order made by Scottish Ministers.

Section 45 – Document to be issued in connection with penalty fare requirement

172. This section sets out what documentation is exchanged when a penalty fare is charged. By subsection (1), if the passenger pays on the spot, then the person issuing the penalty fare (for convenience here called the inspector) shall issue a receipt. If the passenger does not pay, then the inspector shall issue a notice setting out the requirement to pay within 21 days, the amount of the penalty and the address to which payment should be sent.

173. By subsection (2) the receipt or notice issued under subsection (1) acts as a valid ticket for the journey in question. By subsection (3) the destination for the journey shall be wherever the passenger gives as a destination, or if the passenger does not give a destination shall be decided by the inspector.

Section 46 – Notice of penalty fare provisions

174. This section deals with the display of notices warning people about the penalty fare provisions. Subsection (1) requires the notice to be displayed at every stop and on every tram, and that it be readily visible.

175. Subsection (2) requires the notice to state when penalty fares are payable and how much they are.

Section 47 – Supplementary provisions

176. This section puts duties on the passenger and the inspector. Subsection (1) requires passengers that do not pay on the spot to give their names and addresses, and failure to do so is a criminal offence with the only penalty being a fine of up to £500.

177. Subsection (2) requires inspectors to show their authorisation if requested by a passenger, and if they do not then any request they make shall have no effect.

Section 48 – Exclusion of double liability

178. This section ensures that a passenger liable to pay a penalty fare is not pursued for that fare by more than one method. The alternative methods are set out in subsection (2), and are an offence under byelaws of failing to pay a fare, and an offence under section 25(3) of the Public Passenger Vehicles Act 1981 of failing to pay a fare.

179. Subsection (1) states that proceedings under the alternative methods may not be commenced before 21 days have elapsed since the penalty fare was issued (which is the time the passenger has to pay under this Part), and may not be commenced after 21 days if the passenger has paid the penalty fare or proceedings have been issued under this Part.

180. Subsection (3) provides that if proceedings are commenced by more than one method then any money recovered twice must be repaid and the liability to pay shall cease.

Part 4 – Operation of authorised tramway

181. This Part contains general provisions that allow the Council to operate the tramway in a proper manner.

Section 49 – Power to operate and use authorised tramway

182. Subsection (1) allows the Council to operate the tramway once constructed, to carry goods and passengers. It may seem obvious that it should be able to do so, but unless the power is specifically given, it cannot.

183. Subsection (2) gives the Council the exclusive right to use the tramway equipment and to occupy the road containing the tramway equipment (except that any public right of way over that road shall continue where it is not interrupted by the equipment, by virtue of subsection (4)).

184. Subsection (3) introduces a criminal offence of interfering with tramway equipment, with a maximum penalty of a fine of £500.

Section 50 – Power to charge fares

185. This section authorises the Council to charge for the use of the tram (and also not to charge, if it wishes not to).

Section 51 – Disapplication of duties respecting provision of transport services

186. This section disapplies section 63(7) of the Transport Act 1985, which is a duty not to inhibit competition between providers of public passenger services. This allows the Council to give the tram priority and allow it to be the sole user of the tram system.

Section 52 – Concessionary and integrated travel

187. This section includes the tram within legislation allowing concessionary fares and integrated ticketing to be charged or used, respectively. Subsection (1) applies sections 93 to 101 and 112 of the Transport Act 1985 to the tram, which provide for the operation of a ‘travel concession scheme’, which means a system for charging reduced or no fares to people over 60, under 18, or with certain disabilities.

188. Subsection (2) applies sections 28 and 29 of the Transport (Scotland) Act 2001, which provide for ‘ticketing arrangements’ to be made, whereby the same ticket is valid on services operated by more than one company.

Section 53 – Obstruction to operation

189. This section creates an offence of deliberately obstructing the operation of the tram (compare this with the following section which is for broken down vehicles, spilled loads etc. blocking the tram). Subsection (1) creates the offence, with a maximum penalty of a £1000 fine.

190. Subsection (2) requires the obstruction to be removed and if this is not done by the obstructing person, allows the Council to do it.

191. The remaining subsections deal with what the Council does with anything it removes under this section. Subsection (3) gives the Council a month to contact the owner to reclaim whatever it is, if the owner can be identified (details of the notice to the owner being given in subsection (7)), and subsection (4) gives the owner three months to reclaim the item if the owner cannot be identified.

192. Subsection (5) allows the Council to sell or get rid of the item if it is perishable or particularly expensive to keep, even if the periods in subsections (3) and (4) are still running. Subsection (6) allows the Council to claim the cost of keeping the item, less the proceeds of selling it, from the owner.

Section 54 – Removal of obstructions

193. This section allows the Council to remove obstructions to the operation of the tram caused by vehicles or loads falling from vehicles.

194. Subsection (1) requires the person in charge of a vehicle to remove it from its obstructing position immediately, and if such a person does not do so, authorises the Council to do so and to recover the expense of doing so from either the person who left the vehicle in such a place or the owner of the vehicle (unless the owner can show that they were not involved or aware of the incident).

195. Subsection (2) repeats subsection (1) with respect to loads falling from vehicles.

196. Subsection (3) defines who the owner of a vehicle is, namely with reference to the registered keeper under the Vehicles (Excise and Registration) Act 1994.

Section 55 – Prevention or restriction of running of tram

197. This section allows three specified events per year listed in schedule 8 to take place on the tram route without restriction. When the Council considers permission for all other events, it must consult the tram operator and consider the effect on safety and the running of the tram.

Section 56 – Traffic signs and priority

198. This section deals with the placing of traffic signs in connection with the tram, and allows the tram to be given priority over other traffic. Subsection (1) allows the Council as undertaker to place and maintain traffic signs that are either of a standard type specified by regulations made under the Road Traffic Regulation Act 1984 or authorised by the Secretary of State (traffic signs are a reserved matter under the Scotland Act 1998).

199. Subsection (2) requires the Council as undertaker to consult the traffic authority about the placing of signs, which shall normally be placed and maintained by the traffic authority. The traffic authority can refuse to do so, however, or give directions under section 65 of the Road Traffic Regulation Act 1984.

200. Subsection (3) includes the Council as undertaker within the power to be given directions by Ministers contained in section 65 of the 1984 Act, and so subsection (1) is subject to such directions.

201. Subsection (4) allows the tram to be given priority over other traffic at junctions.

202. Subsection (5) includes the tram within the duty set out at section 122(1) of the 1984 Act, which puts a duty on the local authority to facilitate public service vehicles and secure the safety and convenience of people using them.

Section 57 – Power to lop trees overhanging the tramway

203. This section allows the Council as undertaker to prune vegetation that interferes with the operation of the tram or people using it. Subsection (1) sets out the general power to fell or lop any tree or shrub or cut back its roots if it believes it necessary to prevent it from interfering with the tramway or being a danger to people using it.

204. Subsection (2) requires the Council to do no more damage than is necessary and to compensate the owner of the tree or shrub, and subsection (4) provides that the usual procedure in case of dispute applies.

205. Subsection (3) exempts this power from tree preservation order legislation contained in the Town and Country Planning (Scotland) Act 1997, whether there is a tree preservation order in force or the tree is in a conservation area.

Section 58 – Trespass on tramroads

206. This section makes it an offence to trespass on a tramroad, with a maximum penalty of a fine of £1000. Subsection (1) sets out the elements of the offence, namely trespass directly on the tramroad (being any part of the tram system not running down a road) or trespass on the land of the Council as undertaker dangerously near the tramroad or its apparatus.

207. Subsection (2) provides that a conviction can only be secured if there was a warning against trespass displayed at the nearest tram stop.

Section 59 – Power to make byelaws

208. This section allows the Council to make byelaws in relation to the tram. Byelaws are local laws of limited scope governing a particular area.

209. Subsection (1) sets out the main byelaw-making power. Byelaws must be connected to the use of the tramway and the conduct of people on it, including employees.

210. Subsection (2) provides a non-exhaustive list of subjects that the byelaws could cover. This includes things such as payment of fares, lost property, and the carriage of bicycles.

211. Subsection (3) allows byelaws to create criminal offences, restricted to a maximum penalty of £1000. By subsection (4), the Council as undertaker may take summary action to avoid danger or annoyance to the public or hindrance of the operation of the tram – in other words it can remove people and things from the tram premises.

212. Subsection (5) requires proposed byelaws to be confirmed by Scottish Ministers.

213. Subsections (6) to (12) set out the byelaw confirmation procedure. First, the Council must publish a notice of its intention to create byelaws, at least 28 days before it applies to Scottish Ministers. It must specify a period for making representations, during which it must have copies available for inspection at its offices and provide copies for payment of a reasonable

sum. Scottish Ministers can confirm or refuse to confirm any of the byelaws and can fix a date on which they are to come into operation. They may charge the Council a fee for administration. Once confirmed by Scottish Ministers, the byelaws must also be available for inspection and purchase. Finally, a copy of the byelaws endorsed by a certificate signed by an authorised Council officer which states the facts listed at subsection (12)(a) to (d) shall be evidence in a court of those facts.

Section 60 – Power to contract for police services

214. This section allows the Council to enter into an agreement with any police force, including the British Transport Police, to police the tramway. Subsection (1) sets out the primary power. The agreement must be made with the chief officer of police and the police authority, or in the case of the British Transport Police, the Strategic Rail Authority.

215. Subsection (2) allows the agreement to be made on any terms and conditions and subject to payment.

216. Subsection (3) allows British Transport Police officers to police the tramway, if the agreement has been made with the Strategic Rail Authority, because they are normally restricted to railway stations etc.

Part 5 – Miscellaneous and general

217. This Part of the Bill contains a collection of miscellaneous powers and provisions affecting the tram.

Section 61 – Insulation against noise

218. This and the next two sections allow the Council as undertaker to create a scheme whereby it pays owners of buildings affected, or likely to be affected, for noise insulation works. Subsection (1) sets out the principal power to make such a scheme, and subsection (2) gives the Council the power to make the grants.

219. Subsection (3) sets out the requirements of a noise insulation scheme. It must say which areas are affected; who should be paid the grants and how much; any conditions for the payment of the grant; how long the scheme shall last, which must be at least two years; and it must say that the Council will give reasons for refusal of a grant if asked.

220. Subsection (4) allows the scheme to affect different areas differently, and allows a scheme to be varied as long as grants already made are not affected.

221. Subsection (5) sets out the advertising requirements for the scheme. It must be advertised in two successive weeks of local newspapers and state the effect of the scheme and where it may be inspected.

222. In a similar way to section 59(12), subsection (6) sets out how a copy of a newspaper advertisement may be accepted as evidence in court.

Section 62 – Orders for insulating new buildings

223. This section allows the Council to ask Scottish Ministers to require that all new buildings in the area of a noise insulation scheme are built to certain standards of noise insulation. Subsection (1) provides that the Council can apply to Scottish Ministers to make an order to this effect.

224. Subsections (2) and (3) require a map to accompany the application, which shows the area (which can be the whole scheme area or part of it) that the order will cover.

225. Subsection (4) sets out the notice requirements for the order. Again (as in the previous section for schemes) it must be advertised in two successive weeks of local newspapers, stating its effect and where it may be inspected. Additionally, and unlike schemes, it is possible to object to the order to Scottish Ministers. This is because schemes are simply a declaration of the Council's intention to award money for noise insulation, whereas an order under this section will place a burden upon those intending to build new buildings. The period for making an objection must be at least 28 days.

226. Subsection (5) sets out the requirements for an objection, namely that it must be sent to Scottish Ministers with a copy to the Council, and it must say what the grounds of objection are.

227. Subsection (6) requires a local inquiry to be held if there are objections to the order that are not withdrawn after negotiation. This is similar to a planning inquiry in front of a reporter. Scottish Ministers must consider the report of the reporter, but do not need to follow its recommendation.

228. Subsection (7) provides that Scottish Ministers can either make the order as requested by the Council or they may make it with changes. They may also decline to make it. By subsection (8) if the order is made in some form, then the Council must advertise the fact in a local newspaper.

229. Subsection (9) ensures that the requirements of an order under this section are taken into account when approval for a new building is granted under the Building (Scotland) Act 1959. That Act is due to be repealed by the Building (Scotland) Act 2003 but no date has been set for the commencement of the new Act. This may require an amendment to this section during the passage of the Bill.

230. Subsection (10) provides a more general power to hold local inquiries should Scottish Ministers decide that one is necessary.

Section 63 – Repeal of sections 61 and 62

231. This section allows Scottish Ministers to repeal the previous two sections (schemes and orders for noise insulation) should later legislation render them redundant, but only if the Council applies to them for this to be done (subsection (4)).

232. Subsection (3) applies the general power to hold local inquiries to this section as well as the previous section.

Section 64 – Powers of disposal, agreements for operation, etc.

233. This section allows the Council to enter into an agreement with any organisation to carry out the provisions of the Bill – in other words it may pass on or subcontract the construction, operation or maintenance of the tram or any other power contained in the Bill. Subsection (1) provides the principal power to pass on the works and associated land and the right to operate the tram, either temporarily or permanently.

234. Subsection (2) allows the Council to enter into contracts about the construction, maintenance, use and operation of the tram with any other organisation.

235. Subsection (3) makes it clear that the Council can choose to continue to have responsibility for any part of the works under such a contract, and may transfer any part of the works to another organisation, and with it the rights and responsibilities relating to it.

236. Subsection (4) makes it clear that the restrictions contained in this Bill shall apply also to any organisation to whom the Council has transferred any part of the tram system.

Section 65 – Application of landlord and tenant law

237. This section is concerned with agreements between the Council and any other organisation under the previous section that involve the lease of land for the use of the other organisation. It makes it clear that such a lease of land will not be overridden by any existing rules or legislation concerned with landlord and tenant law.

238. Subsection (1) sets out the subject-matter of the section, namely agreements under the previous section. Subsection (2) states that such agreements shall not be affected by existing landlord and tenant law.

239. Subsection (3) clarifies what sort of features of such an agreement will be unaffected: rights and obligations under the terms of the lease of land; rights and obligations that are not provided under the terms of the lease but might have applied to the land in question; and the terms of enforcement of the provisions of the lease.

Section 66 – Trams deemed public service vehicles

240. This section allows the Council to include trams within the scope of certain regulations made under the Public Passenger Vehicles Act 1981 as public service vehicles. These are for the regulation of drivers, conductors and inspectors (section 24), the regulation of the conduct of passengers (section 25), the control of numbers of passengers (section 26), the carriage of luggage and goods (section 60(1)(j)), and lost property (section 60(1)(k)). Subsection (1) applies the regulations to trams.

241. Subsection (2) provides that the date on which existing regulations under those sections are to be applied to the tram authorised by this Bill can be fixed by the Council.

242. Subsection (3) provides that at least 28 days before any regulation is to apply, the Council must advertise the fact in a local newspaper.

243. Subsection (4) provides the technical requirements for the newspaper notice to be accepted as evidence in court.

Section 67 – Statutory undertakers, etc.

244. This section brings schedule 9 into effect, which contains the standard provisions for dealing with public utilities whose pipes and wires etc. may be affected by the tram, contained in the model clauses for tramway legislation under the Transport and Works Act 1992, modified to apply to Scotland.

Section 68 – Listed buildings and conservation areas

245. This section deals with works required to listed buildings for the construction of the tram. Essentially, for works other than affixing of apparatus to buildings, any works described in Part 1 of schedule 10 will be immune to enforcement action. Any other works will therefore have to be the subject of an application to the local planning authority for listed building consent. For affixing apparatus to listed buildings, this will also be immune to enforcement action *except* for any building listed in Part 2 of schedule 10. Again, should it later become necessary to attach apparatus to a building listed in Part 2 of schedule 10, then this will have to be the subject of an application for listed building consent.

246. Subsection (1) deals with works other than attachments. It exempts work under this Bill from any action under sections 6, 34(1), 38(1) and 49 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Section 6 forbids works to listed buildings that are not authorised. Section 34(1) allows the local planning authority to issue a listed building enforcement notice. Section 38(1) allows the local planning authority to carry out remedial action described in a listed building enforcement notice itself. Section 49 deals with urgent works to unoccupied listed buildings.

247. Subsection (2) deals with attachments to listed buildings. It is similar to the previous subsection but the exemption is only for works under section 15 (attachments to listed buildings) and only to buildings *not* listed in Part 2 of schedule 10.

248. Subsection (3) makes it clear that it is only the works described in Part 1 of schedule 10 to which the immunity to listed building enforcement in subsection (1) applies.

249. Subsection (4) includes listed buildings which had not been listed at the time that this Bill was passed within the scope of this section.

250. Subsection (5) provides that an application for conservation area consent need not be made for the demolition of a building that is either listed in Part 1 of schedule 10, or was only included within a conservation area since this Bill was passed. Conservation area consent is normally required for demolishing any building within a conservation area.

251. Subsection (6) provides that whatever falls within the definition of part of a listed building in the 1997 Act also falls within that definition in this Bill.

252. Subsection (7) disapplies section 53 of the 1997 Act, which would have made it a criminal offence to do works to a listed building without consent.

Section 69 – Ancient monuments

253. This section removes the need to apply for consent under the Ancient Monuments and Archaeological Areas Act 1979 for works under this Bill. Subsection (1) introduces the section. The rest of the section disapplies various provisions of the 1979 Act.

254. Subsection (2) disapplies section 2 of the 1979 Act, which would have made it a criminal offence to do works to a scheduled monument without consent. Ancient monuments are protected by being ‘scheduled’ in the same way that listed buildings are protected by being on a list.

255. Subsection (3) disapplies sections 6(1), 6A(1) and 26 of the 1979 Act. Section 6(1) gives power to inspectors authorised by Scottish Ministers to inspect works being carried out to a scheduled monument. Section 6A(1) is the same but for inspectors authorised by Historic Scotland. Section 26 is another inspection power for inspectors authorised by Scottish Ministers.

256. Subsection (4) modifies the powers of guardians and agreements under the 1979 by making them subject to the powers in the Bill.

257. Subsection (5) allows public access to a monument to be restricted while works are being carried out to it under this Bill.

258. Subsection (6) disapplies any regulations made under section 19(3) or (4A) of the 1979 Act, which are concerned with public access and protecting monuments from injury or disfigurement.

259. Subsection (7) modifies section 19(6), which allows authorised people to refuse admission to those they believe may injure or disfigure a scheduled monument to be subject to this Bill.

260. Subsection (8) modifies section 25(2) and (3) so that Scottish Ministers shall not authorise superintendence nor charge for advice in connection with works under this Bill.

261. Subsection (9) disapplies section 28, which introduces an offence of damaging scheduled monuments.

262. Subsection (10) disapplies section 35, which would normally require notice to be given of works in the vicinity of a scheduled monument.

263. Subsection (11) includes the works authorised by this Bill under ‘exempt works’ for the purposes of section 39(1) of the 1979 Act, which is concerned with a right to enter a site covered by a notice under section 35 of that Act.

264. Subsection (12) disapplies section 42(1) which forbids the use of metal detectors in protected places. Subsection (13) disapplies section 42(3) which forbids the removal of objects found by metal detectors.

Section 70 – Town and country planning, etc.

265. Planning permission is in general automatically granted by the enactment of the Bill, because of the operation of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. In that order, any development (that is, anything that would normally have required a planning application) authorised by a private Act of the Scottish Parliament is considered to be ‘permitted development’, which means development that automatically receives permission without having to make a planning application. The design and siting of the works is, however, still subject to the approval of the local planning authority in most cases (known as ‘prior approval’), normally where the work is considered to be a ‘building’.

266. Section 70 deals with any alterations, clarifications or additions to the normal effect of the planning regime explained in the previous paragraph. Subsection (1) asserts that the planning system applies to the Bill where it is not inconsistent with the provisions of the Bill.

267. Subsection (2) refers specifically to the part of the 1992 Order that permits development authorised by a private Act of the Scottish Parliament and limits the effect of the permission to ten years from the date that the Bill is passed.

268. Subsection (3) makes it clear that any later work to alter, maintain or repair the works is not caught by the ten-year limit.

269. Subsection (4) makes it clear that some items that it is not obvious are ‘buildings’ are indeed treated as buildings in this Bill, namely electrical substations, poles to support overhead wires, and attachments of apparatus to buildings (which are categorised as extensions to buildings and so also require the prior approval of the local planning authority). Subsection (4)(c) includes the criteria for granting listed building consent within the matters that the local planning authority can consider when considering prior approval for work that affects a listed building. Subsection (4)(d) makes it clear that attachments to buildings are included within ‘permitted development’.

270. Subsection (5) refers to later parts of the 1992 Order that permit development involving railways and tramways. The subsection makes it clear that the part of the 1992 Order dealing with railways will apply to tramroads authorised by this Bill and the part dealing with tramways will apply to road tramways authorised by this Bill. For an explanation of those terms see paragraph 12 of these Notes. The local planning authority has withdrawn the rights to permitted development for those parts of the 1992 Order for the geographical area of the centre of Edinburgh forming the World Heritage Site. This subsection will ensure that work to the tram system outside the World Heritage Site will be treated as permitted development.

271. Subsection (6) defines the authority who must assess the tramway project for the purposes of the Habitats Regulations (as to its effect on certain land areas and protected species) to be the Scottish Parliament.

Section 71 – Blighted land

272. This section addresses an omission from the Scotland Act 1998 where the blight provisions of the Town and Country Planning (Scotland) Act 1997 were not extended to private Acts of the Scottish Parliament. The section includes this Bill within the scope of those blight provisions. The blight provisions allow certain categories of landowner to require the Council to purchase their land at market value if they cannot do so because of the existence of the compulsory purchase provisions in the Bill.

Section 72 – Saving for roads authority

273. This section asserts the continued right of the roads authority to alter roads along which the tramway is to run, but requires it to obtain the consent of the Council as undertaker before doing so. Such consent cannot be withheld unreasonably, but can be granted subject to conditions. If there is a dispute then Scottish Ministers are to resolve it.

Section 73 – Certification of plans, etc.

274. This section requires the Council to send copies of the plans, sections and book of reference to Scottish Ministers to certify them, and such a certification will be evidence in court as to the plans, sections and book of reference it refers to.

Section 74 – Service of notices

275. This section deals with the requirements for notices that need to be served on people and organisations as a result of the operation of this Bill, which will principally be when the compulsory purchase provision of the Bill are invoked. Subsection (1) provides that notices can be served by post.

276. Subsection (2) provides that notices to be served on corporate bodies can be served on the secretary or clerk of the body.

277. Subsection (3) deals with addresses. If a particular address has been given by someone, it is to be used; if not and it is a body corporate, then the registered or principal office of the body is to be used; if it is not a body corporate, then the last known address is to be used.

278. Subsection (4) deals with the case where the name or address of someone to be served cannot be found after a reasonable amount of effort. In that case, the notice can be served by (if the name is not known) putting 'the owner', 'the occupier' or 'the lessee', and (if the address of the person is not known) leaving it with someone who appears to live or work on the land in question (this will often be a case where a parcel of land is to be acquired but the owner of the land cannot be traced), or fixing it in a conspicuous position on or near the land.

279. Subsection (5) makes it clear that any other method of service that has not been mentioned in this section can still be used.

Section 75 – Application of Railways Act 1993

280. This short section makes it clear that the whole tram system should be defined as a ‘tramway’ for the purposes of railway legislation (rather than falling within the narrow definition of a railway).

Section 76 – Arbitration

281. This section sets out the procedure when the Council as undertaker does not agree with some other person or body from whom it is seeking consent or agreement, or to whom it is giving consent, other than cases where the Lands Tribunal for Scotland or Scottish Ministers are to resolve such a dispute. The parties can agree an arbiter, or if not one will be appointed by the President of the Institute of Civil Engineers. The arbiter can refer a question to the Court of Session if necessary.

282. Subsection (2) disapplies section 108 of the Housing Grants, Construction and Regeneration Act 1996 which has a special arbitration procedure for ‘construction contracts’.

Part 6 – Supplementary

283. The final Part of the Bill deals with technical issues to do with the Bill itself.

Section 77 – Incorporation of enactments

284. In the 19th century, when a large number of private Acts of Parliament were sought to authorise the construction of railways and other infrastructure, a series of Acts were passed that contained ‘model clauses’ that could then be incorporated into each particular private Act to save them from being continually rewritten, and also to save space. While the language is becoming outdated, those ‘clauses Acts’ are still used today, often because no promoter of a private Bill will take it upon themselves to rewrite such tried and tested provisions.

285. Accordingly, most of ‘the Lands Clauses Acts’ which means the Lands Clauses Consolidation (Scotland) Act 1845 (c. 19), the Lands Clauses Consolidation Acts Amendment Act 1860 (c. 60) and any amendments to those Acts, are incorporated into this Bill. The only exception is sections 120 to 125 of the 1845 Act, which is superseded by provisions of this Bill. Subsection (1) incorporates the Acts, and applies them where they are not inconsistent with this Bill.

286. Subsection (2) makes it clear that the ‘special Act’, i.e. the Act that the Lands Clauses Acts contemplate being incorporated within, is this Bill, the authorised undertaker in this Bill is what is referred to in the Lands Clauses Acts as ‘the promoters of the undertaking or the company’, and the authorised works in this Bill are what is referred to as the ‘the works or the undertaking’

Section 78 – Interpretation

287. This section defines terms used in the Bill. It is here, for example, where ‘the authorised undertaker’ is defined as the Council, which is why ‘the Council’ has been used within these notes for simplicity.

Section 79 - Orders

288. This section deals with any power within the Bill to make orders. Subsection (1) provides that they shall be made by statutory instrument. Subsection (2) provides that the power to make an order is supplemented with a more general power to make further provisions in connection with the order. Subsection (3) provides that the Scottish Parliament shall have the opportunity to annul, in other words to block, an order made under this Bill.

Schedules

Schedule 1 – Scheduled works

289. The first schedule describes the main works that make up the tram system. Most of them are the installation of the tram line along sections of the route, but they also include related works such as major alterations to road junctions.

Schedule 2 – Roads subject to alteration of layout

290. The second schedule lists the roads whose layout is proposed to be changed by the Bill. The layouts shown in the plans and described in this schedule are authorised by the Bill – any changes to this are also authorised but must be agreed with the road works authority. The points listed in the third column are shown on the given sheets of the Parliamentary plans.

Schedule 3 – Roads to be permanently stopped up

291. Part 1 of this schedule lists roads to be stopped up with a substitute provided – in other words roads to be diverted. In all three parts of this schedule the third column lists the points shown on the given sheets of the Parliamentary plans.

292. Part 2 of this schedule lists roads that are being stopped up, but only to vehicular access – pedestrians and cyclists will continue to be able to use them.

293. Part 3 lists roads that are to be stopped up with no substitute being provided.

Schedule 4 – Roads to be temporarily stopped up

294. The fourth schedule lists the roads that will be stopped up temporarily while the works are being constructed and that will be re-opened afterwards.

Schedule 5 – Level crossings

295. The fifth schedule lists the points where either the tramroad crosses a road, or the road tramway crosses a more major road than the one it is travelling along.

Schedule 6 – Acquisition of certain land

296. The sixth schedule lists the parcels of land that are required to be acquired permanently outside the limits of deviation (see explanation of section 2). The first and second columns list the sheet of the Parliamentary plans on which the parcel is located and the number by which it is referred to. The third column lists the purpose for which each parcel of land is required. The schedule separates into two Parts the acquisition of land and rights in land.

These documents relate to the Edinburgh Tram (Line Two) Bill (SP Bill 18) as introduced in the Scottish Parliament on 29 January 2004

Schedule 7 – Land of which temporary possession may be taken

297. The seventh schedule lists the parcels of land that are to be used temporarily and returned no later than a year after the works listed in the fourth column have been completed. The first and second columns list the sheet of the Parliamentary plans on which the parcel is located and the number by which it is referred to. The third column lists the purpose for which each parcel of land is required.

Schedule 8 – Permitted events on tram route

298. The eighth schedule lists the only events for which the tram may be required to cease operation.

Schedule 9 – Provisions relating to statutory undertakers, etc.

299. The ninth schedule contains standard provisions to deal with the situation where a statutory undertaker (usually a public utility) is required to move its apparatus because of the building of the tram system.

Schedule 10 – Listed buildings

300. Part 1 of this schedule lists buildings to which work can be carried out without an application for listed building consent being required, and the third column lists the work that can be carried out.

301. Part 2 of the schedule lists buildings to which equipment may *not* be attached without an application for listed building consent being made – listed buildings not mentioned in the schedule may have equipment attached to them without further consent.

ESTIMATE OF EXPENSE AND FUNDING STATEMENT

302. This document relates to the Edinburgh Tram (Line Two) Bill introduced in the Scottish Parliament on 29 January 2004. It has been prepared by Transport Initiatives Edinburgh Limited, Bircham Dyson Bell, FaberMaunsell and Grant Thornton on behalf of the promoter, The City of Edinburgh Council, to satisfy Rule 9A.2.3(c)(i) of the Parliament's Standing Orders and to assist in an understanding of the background to the Bill. The contents are entirely the responsibility of the promoter and have not been endorsed by the Parliament.

303. The document is divided into three parts, in accordance with the determinations of the Presiding Officer at Annexes E and L of the Parliament's *Guidance on Private Bills*. The first part sets out estimates of the cost of each element of the project. The second part sets out when these costs are expected to be incurred and what margin of uncertainty there is. The third part sets out estimates of the sources of funding for the project.

RELATIONSHIP WITH THE EDINBURGH TRAM (LINE ONE) BILL

304. The Edinburgh Tram (Line Two) Bill has been introduced in the Parliament alongside the Edinburgh Tram (Line One) Bill, which seeks similar powers for a further tram project which links with Line Two. Certain aspects of the two projects coincide, primarily a shared section of the route from Roseburn to St. Andrew Square in Edinburgh. An independent evaluation of the costs and funding for each line has been performed. To avoid double counting of the costs related to the joint running section, these costs have been omitted from the costings for Line Two in this statement, and included in the equivalent document for Line One (together with an explanation of this approach). The estimated cost of the joint running section is set out below.

305. Similarly, a grant from the Scottish Executive has been awarded to cover the network of two lines, without being conditional on a particular configuration. The grant has accordingly been apportioned between the two lines to avoid double counting of funding. This apportionment (although not the total) may be refined as project costings and funding requirements are finalised through formal procurement. The form of the grant (whether lump sum capital or annual revenue support) is also subject to revision in the light of decisions on procurement strategy.

ESTIMATED TOTAL COST OF THE PROJECT

306. "I estimate the expense of the works or purposes proposed to be carried out under the above Bill to be as follows:

Estimate of expense	
<i>Work or purpose</i>	<i>Amount (£)</i>
Permanent way	£33,946,000
Earthworks	£5,093,000
Stops and buildings	£4,730,000
Other structures	£20,899,000
Power and overhead line equipment	£9,149,000
Signalling and telecommunications	£12,724,000
Associated highway and accommodation works (including environmental mitigation)	£5,441,000
Operation, maintenance and control centre	£10,199,000
Vehicles	£20,150,000
Public utilities diversions	£24,096,000
Sub total for works	£146,427,000
Implementation costs (including fees for professional and other advisors, design, coordination and commissioning costs)	£20,041,000
Land acquisition costs	£25,620,000
Preliminaries	£19,696,000
Sub total for general items	£65,357,000
Treatment and disposal of contaminated material	£1,500,000
Contingencies	£17,116,000
Sub total for contingencies	£18,616,000
GRAND TOTAL	£230,400,000

307. All costs are stated in 2003 (Q2) prices. Where appropriate, future cash flows have been discounted using standard HM Treasury methodology to provide net present values as at 2003. The costs include the full extent of Line Two as set out in the Bill, except the section of Line Two that coincides with a section of the tram route for which powers are sought in the Edinburgh Tram (Line One) Bill. The costs of this section are £48,100,000.

ESTIMATE OF TIMESCALES

308. The cost will be incurred over the period 2006-2009, with the bulk of the construction due to take place from mid 2006-mid 2009. These dates are provided on the understanding that the Bill takes no longer than 24 months to be passed by the Parliament. The timing of consideration has a margin of uncertainty of plus or minus six months. The period of construction has a margin of uncertainty of minus six months to plus twelve months.

SOURCES OF FUNDING

309. It is estimated that the project detailed in the Estimate of Expense is funded as follows—

Funding statement	
<i>Source of funding</i>	<i>Amount</i>
Scottish Executive integrated transport fund	£165,000,000
Funding from operational surpluses net of refurbishment and replacement costs, commercial income, property contributions related to the project, other public sector and private sector sources to be developed in due course	£65,400,000
Total	£230,400,000

310. All costs are stated in 2003 (Q2) prices. Where appropriate, future cash flows have been discounted using standard HM Treasury methodology to provide net present values as at 2003. The Scottish Executive integrated transport funding is subject to the business case being approved by all parties.”

311. Signed by T N Aitchison, Chief Executive of The City of Edinburgh Council on 28 January 2004.

PROMOTER'S STATEMENT

312. This statement is provided in compliance with Rule 9A.2.3(d) of the Standing Orders of the Scottish Parliament. It contains five sections, corresponding to Rules 9A.2.3(d)(i), (ii), (iv), (v) and (vi). Rule 9A.2.3(d)(i) applies to the Bill because it affects heritable property. Rule 9A.2.3(d)(ii) applies to the Bill because it is promoted by a body corporate. Rule 9A.2.3(d)(iii) does not apply to the Bill because it does not contain provision to confer powers upon or modify the constitution of any body corporate or unincorporated association of persons other than the promoter. Rules 9A.2.3(d)(iv), (v) and (vi) apply to every private Bill. The statement accords with the determinations of the Presiding Officer and recommendations at Annexes F, G and H of the *Guidance on Private Bills*.

NOTIFICATION TO PERSONS WITH AN INTEREST IN HERITABLE PROPERTY

313. The persons having an interest in heritable property that will be subject to compulsory purchase are listed in the book of reference. Each of these persons was notified of the proposal to introduce the Bill by means of a notice sent by 'recorded signed for' delivery on 27 January 2004. The standard forms of notice that were sent are reproduced at Annex 1 to this statement.

314. The persons having an interest in heritable property that will be affected by the Bill without being subject to compulsory purchase have been notified of the proposal to introduce the Bill by the promoter's land referencing agent LandAspects Ltd. These persons were sent a notice on 24-27 January 2004. The standard form of notice that was sent to such persons is reproduced at Annex 2 to this statement.

NOTIFICATION TO AND CONSENT OF MEMBERS OF THE PROMOTER

315. The promoter, The City of Edinburgh Council, passed a resolution under section 82 of the Local Government (Scotland) Act 1973 (as amended) at its meeting on 22 December 2003. Notice of the meeting was advertised in *The Scotsman* and *The Edinburgh Evening News* on 5 December 2003, being more than the required ten days before the meeting. The resolution was passed by 55 votes for, none against and no abstentions, being by the required majority of all 58 members. The text of the notice is reproduced at Annex 3 to this statement. The resolution was passed following the amendment of the description of the route in the second paragraph to read "St. Andrew Square, via Princes Street, Haymarket, Murrayfield and South Gyle to Edinburgh Airport and Newbridge." rather than "St Andrew Square, along Princes Street to Haymarket, Murrayfield, South Gyle and Edinburgh Airport, with a shuttle from Ingliston Park and Ride to Newbridge."

316. A second resolution is required to be passed at a meeting of the council taking place at least 14 days after the introduction of the Bill. If this resolution is not passed by a majority of members then the Bill may be withdrawn.

ADVERTISEMENT OF PROMOTER'S INTENTION TO PROMOTE BILL

317. Notice of the intention to promote the Bill in the Scottish Parliament was published in the *Scotsman* on 16 and 23 January 2004 and in the *Edinburgh Evening News* on the same days.

These documents relate to the Edinburgh Tram (Line Two) Bill (SP Bill 18) as introduced in the Scottish Parliament on 29 January 2004

The text of the notice is reproduced at Annex 4 to this statement. The notice has also been on display since 14 January 2004 in the following Scottish Parliament Partner Libraries:

Constituency	Library	Address
Edinburgh Central	Edinburgh Central Library	George IV Bridge, Edinburgh EH1 1EG
Edinburgh West	Blackhall Library	56 Hillhouse Road, Edinburgh EH4 5EG
Edinburgh North and Leith	Leith Library	28-30 Ferry Road, Edinburgh EH6 4AE
Edinburgh South	Morningside Library	184 Morningside Road, Edinburgh EH10 4PU
Edinburgh East and Musselburgh	Portobello Library	14 Rosefield Avenue, Edinburgh EH15 1AU
Edinburgh Pentlands	Wester Hailes Library	1 West Side Plaza, Edinburgh EH14 2FT

INSPECTION OF ACCOMPANYING AND OTHER DOCUMENTS

318. The accompanying documents that are not printed and published by the Clerk under Rule 9A.4.1 (namely the maps, plans, sections, book of reference, Environmental Statement and assignment of copyright and licensing agreement) may be inspected at the Scottish Parliament Partner Libraries listed in the table above. The documents are available for purchase from Transport Initiatives Edinburgh Ltd, 91 Hanover Street, Edinburgh EH2 1DJ. At the time of introduction of the Bill to the Scottish Parliament there were no other documents relevant to the Bill that have been submitted to the Parliament.

319. On 28 January 2004, the promoter made the following statement:

“We, The City of Edinburgh Council, hereby undertake to send copies of the maps, plans, sections, book of reference and Environmental Statement accompanying the Edinburgh Tram (Line Two) Bill, together with any other documents relevant to the Bill submitted to the Parliament on or after introduction, to the premises determined by the Presiding Officer for the purpose of Rule 9A.4.2.”

PROMOTER’S UNDERTAKING TO PAY COSTS

320. On 28 January 2004, the promoter made the following statement:

“We, The City of Edinburgh Council, hereby undertake to pay any costs that may be incurred by the Scottish Parliamentary Corporate Body during the passage of the Edinburgh Tram (Line Two) Bill in respect of the matters determined by that Body under Rule 9A.2.3(d)(vi) of the Parliament’s Standing Orders.”

ANNEXES: FORM OF NOTICES SENT TO PERSONS AFFECTED AND NEWSPAPER NOTICES ETC.

Annex 1: Text of notices sent to persons with an interest in heritable property subject to compulsory purchase

Title of Principal Officer (if organisation)
Party Name (title, initials and name if person/name if organisation)
Address

Date: [dd month yyyy]
Document Number: [n]
Notice Number: [n]

Warning: If you are in doubt about the possible effect of this letter you should seek legal advice as soon as possible

**EDINBURGH TRAM (LINE TWO) BILL
[DETAILS OF PROPERTY LIABLE TO COMPULSORY PURCHASE]
NOTICE OF PROPOSAL TO [ACQUIRE LAND/RIGHTS IN LAND
COMPULSORILY/EXTINGUISH RIGHTS OVER LAND]**

The purpose of this letter is to inform you that The City of Edinburgh Council intends to introduce a Private Bill, the Edinburgh Tram (Line Two) Bill, into the Scottish Parliament on or after 28 January 2004, and of the procedures involved should you wish to seek further information regarding the Bill, the parliamentary process to which it will be subject, or how to lodge an objection.

The purpose of the Bill is to authorise the construction and operation of a tram line in Edinburgh. The line will form a western course from St. Andrew Square, via Princes Street, Haymarket, Murrayfield and South Gyle to Edinburgh Airport and Newbridge.

We understand that you have an interest in the property [insert general details of property] fully described in the schedule to this notice. [The Bill provides for the extinguishment of the rights in land described in the schedule to this notice and shown on the extract from the Bill plans attached to the schedule]. If the Bill is passed by the Parliament, you may be obliged to sell [a right in] your property, or a right to use it. [This means that ownership of the property [details of property] could be taken from you/This means that rights in or over the land may be extinguished/This means that rights in your interest in the property [insert general details of property] may be made subject to certain rights.] You may be entitled to compensation from the promoter [if you are obliged to sell the property or the promoter gains a right to use it/if this occurs.]

The day after the Bill is introduced in the Parliament, it will be published by the Parliament together with the following documents—

- Explanatory Notes;
- Promoter's Memorandum;
- Promoter's Statement;

These documents relate to the Edinburgh Tram (Line Two) Bill (SP Bill 18) as introduced in the Scottish Parliament on 29 January 2004

- Estimate of Expenses and Funding Statement; and
- Statement by the Presiding Officer of the Parliament on the legislative competence of the Bill.

From the day after introduction, the Bill and the above documents will also be available, free of charge, on the Parliament's website (www.scottish.parliament.uk, go to 'Documents' and then 'Bills'). In addition, copies of the Bill and all of its accompanying documents including, in addition to the above, the Book of reference, maps, plans and sections, and the Environmental Statement, that have been published by the promoter in connection with the Bill, will be available for inspection at the following Parliament partner libraries—

- Edinburgh Central Library, George IV Bridge, Edinburgh EH1 1EG
- Blackhall Library, 56 Hillhouse Road, Edinburgh EH4 5EG
- Leith Library, 28-30 Ferry Road, Edinburgh EH6 4AE
- Morningside Library, 184 Morningside Road, Edinburgh EH10 4PU
- Portobello Library, 14 Rosefield Avenue, Edinburgh EH15 1AU
- Wester Hailes Library, 1 West Side Plaza, Edinburgh EH14 2FT.

If possible, a copy of the Environmental Statement will be made available via the Parliament's website.

Copies of the Bill, and those accompanying documents published by the Parliament, will be available for sale from any Stationery Office bookshop. Copies of the other accompanying documents will be available for sale from Transport Initiatives Edinburgh, 91 Hanover Street, Edinburgh, EH2 1DJ for the following—

- | | |
|--|------|
| • Environmental Statement | £75 |
| • Non-technical summary of the Environmental Statement | £5 |
| • Environmental Statement and non-technical summary on CD-ROM | £15 |
| • Plans and Sections, A1 size | £70 |
| • Plans and Sections, A3 size | £30 |
| • Single sheet of Plans or Sections, A3 size | £3 |
| • Book of Reference | £25 |
| • Assignment of copyright and licensing agreement | £2 |
| • Complete set of above documents (A1 size plans and sections) | £175 |

We intend that the Bill shall exclude section 90 of the Lands Clauses Consolidation (Scotland) Act 1845, and shall substitute for it a provision—

- (a) restricting the power of acquiring compulsorily a part only of a house or building to cases where the part can be taken without material detriment to the house or building; and

- (b) restricting the power of acquiring compulsorily a part only of a park or garden belonging to a house to cases where the part can be taken without seriously affecting the amenity or convenience of the house.

Once the Bill has been introduced into the Parliament, it will be subject to a three Stage process where it will be considered in detail both by a specially established Private Bill Committee and by the full Parliament. During the Bill's consideration by the Committee, it can hear evidence directly from objectors to the Bill.

Should you wish to object to the Bill, you will have 60 days to do so. The objection period commences at the beginning of the day after the date of introduction of the Bill and ends at 5.00 pm on the sixtieth day after the date of introduction. Objections must be lodged with the Private Bills Unit, The Scottish Parliament, Edinburgh, EH99 1SP (0131 348 6789, private.bills@scottish.parliament.uk). The enclosed leaflet gives information on the Private Bill process and, in particular, the objection process. A copy of the Parliament's Private Bill guidance, which explains in greater detail the procedures involved in the Private Bill process, is available for inspection from the partner libraries listed above. The guidance is also available on the Parliament's website (www.scottish.parliament.uk, go to 'Documents' and then 'Parliamentary Procedure').

If you are wishing to lodge an objection, you will require to conform to the admissibility criteria set out on the Parliament's Standing Orders (its rules of procedure). Objections are required to—

- be signed (where applicable, by a person duly authorised and showing that person's position or designation) and dated;
- be in English;
- be printed, typed or clearly hand-written;
- set out clearly the name, address and, where available, other contact details of the objector (telephone, email and fax); (see below for additional information in relation to this)
- explain whether the objection is against the whole Bill or only to certain provisions (in which case these should be clearly identified) (see below for additional information in relation to this);
- set out clearly the nature of the objection i.e. why the objector opposes the Bill for example, the proposed acquisition of an objector's property; noise and vibration associated with a proposed new transport scheme;
- specify how the objector's interests would be adversely affected by the Bill, for example, because of anticipated loss of earnings or reduction in property values; adverse impact on employment or business; loss of amenity etc;
- be accompanied by the lodging fee (currently £20, cheques should be made payable to 'The Scottish Parliament').

It is important that an objection states clearly whether it is against the whole Bill or to certain identified provisions. In either case (an objection can be against the whole Bill as

well as certain provisions), the objection must clearly show how the objector will be adversely affected.

At the conclusion of the objection period, the clerks in the Private Bills Unit will check all objections for admissibility. Once this is done, a letter will be issued to each objector and a copy of each admissible objection will be made available for inspection in each of the above partner libraries and posted on to the Parliament's website. Should you not wish all, or any, of your contact details to be made available on the website, then you must inform the clerks of this at the time you are objecting. They will then delete this from the web version of that objection but not from the copies placed in the partner libraries for inspection (this version will be useful to objectors in identifying each other should they wish to enter into dialogue where there are objections of a similar nature).

For further details on the Private Bill process and, in particular, the objection process, please contact the Private Bills Unit. For further details on the subject matter of the Bill please contact Pam Thompson at Bircham Dyson Bell, 50 Broadway, London SW1H 0BL or by telephone on 020 7227 7080.

Transport Initiatives Edinburgh
On behalf of The City of Edinburgh Council

Annex 2: Text of notices sent to persons with an affected interest in heritable property not subject to compulsory purchase

[The owner] [The occupier]
Address

Date: [dd month yyyy]
Document Number: [n]
Notice Number: [n]

EDINBURGH TRAM (LINE TWO) BILL

The purpose of this letter is to inform you that The City of Edinburgh Council intends to introduce a Private Bill, the Edinburgh Tram (Line Two) Bill, into the Scottish Parliament on or after 28 January 2004, and of the procedures involved should you wish to seek further information regarding the Bill, the parliamentary process to which it will be subject, or how to lodge an objection to the Bill.

If you know of any other person(s) having an interest in your property who may not receive this notice, for example a person who is not in occupation, please advise, with full contact details, [the Edinburgh Tram Line 2 Project Team on [contact details] so additional notices can be sent.]

The purpose of the Bill is to authorise the construction and operation of a tram line in Edinburgh. The line will form a western course from St. Andrew Square, via Princes Street, Haymarket, Murrayfield and South Gyle to Edinburgh Airport and Newbridge.

These documents relate to the Edinburgh Tram (Line Two) Bill (SP Bill 18) as introduced in the Scottish Parliament on 29 January 2004

The day after the Bill is introduced in the Parliament, it will be published by the Parliament together with the following documents—

- Explanatory Notes;
- Promoter's Memorandum;
- Promoter's Statement;
- Estimate of Expenses and Funding Statement; and
- Statement by the Presiding Officer of the Parliament on the legislative competence of the Bill.

From the day after introduction, the Bill and the above documents will also be available on the Parliament's website (www.scottish.parliament.uk, go to 'Documents' and then 'Bills'). In addition, copies of the Bill and all of the accompanying documents (including, in addition to those listed above, the Book of Reference, maps, plans and sections, and the Environmental Statement, that have been published in connection with the Bill) will be available for inspection at the following Parliament partner libraries—

- Edinburgh Central Library, George IV Bridge, Edinburgh EH1 1EG
- Blackhall Library, 56 Hillhouse Road, Edinburgh EH4 5EG
- Leith Library, 28-30 Ferry Road, Edinburgh EH6 4AE
- Morningside Library, 184 Morningside Road, Edinburgh EH10 4PU
- Portobello Library, 14 Rosefield Avenue, Edinburgh EH15 1AU
- Wester Hailes Library, 1 West Side Plaza, Edinburgh EH14 2FT.

If possible, a copy of the Environmental Statement will be made available via the Parliament's website.

Copies of the Bill, and those accompanying documents published by the Parliament, will be available for sale from any Stationery Office bookshop. Copies of the other accompanying documents will be available for sale from Transport Initiatives Edinburgh, 91 Hanover Street, Edinburgh, EH2 1DJ for the following—

- | | |
|--|------|
| • Environmental Statement | £75 |
| • Non-technical summary of the Environmental Statement | £5 |
| • Environmental Statement and non-technical summary on CD-ROM | £15 |
| • Plans and Sections, A1 size | £70 |
| • Plans and Sections, A3 size | £30 |
| • Single sheet of Plans or Sections, A3 size | £3 |
| • Book of Reference | £25 |
| • Assigination of copyright and licensing agreement | £2 |
| • Complete set of above documents (A1 size plans and sections) | £175 |

Once the Bill has been introduced into the Parliament, it will be subject to a three Stage process where it will be considered in detail both by a specially established Private Bill Committee and by the full Parliament. During the Bill's consideration by the Committee, it can hear evidence directly from objectors to the Bill.

Should you wish to object to the Bill, you will have 60 days to do so. The objection period commences at the beginning of the day after the date of introduction of the Bill and ends at 5.00 pm on the sixtieth day after the date of introduction. Objections must be lodged with the Private Bills Unit, The Scottish Parliament, Edinburgh, EH99 1SP (0131 348 6789, private.bills@scottish.parliament.uk). The enclosed leaflet gives information on the Private Bill process and, in particular, the objection process. A copy of the Parliament's Private Bill guidance, which explains in greater detail the procedures involved in the Private Bill process, is available for inspection from the partner libraries listed above. The guidance is also available on the Parliament's website (www.scottish.parliament.uk, go to 'Documents' and then 'Parliamentary Procedure').

If you are wishing to lodge an objection, you will require to conform to the admissibility criteria set out on the Parliament's Standing Orders (its rules of procedure). Objections are required to—

- be signed (where applicable, by a person duly authorised and showing that person's position or designation) and dated;
- be in English;
- be printed, typed or clearly hand-written;
- set out clearly the name, address and, where available, other contact details of the objector (telephone, email and fax); (see below for additional information in relation to this)
- explain whether the objection is against the whole Bill or only to certain provisions (in which case these should be clearly identified) (see below for additional information in relation to this);
- set out clearly the nature of the objection i.e. why the objector opposes the Bill for example, the proposed acquisition of an objector's property; noise and vibration associated with a proposed new transport scheme;
- specify how the objector's interests would be adversely affected by the Bill, for example, because of anticipated loss of earnings or reduction in property values; adverse impact on employment or business; loss of amenity etc;
- be accompanied by the lodging fee (currently £20, cheques should be made payable to 'The Scottish Parliament').

It is important that an objection states clearly whether it is against the whole Bill or to certain identified provisions. In either case (an objection can be against the whole Bill as well as certain provisions), the objection must clearly show how the objector will be adversely affected.

At the conclusion of the objection period, the clerks in the Private Bills Unit will check all objections for admissibility. Once this is done, a letter will be issued to each objector and a copy of each admissible objection will be made available for inspection in each of the above partner libraries and posted on to the Parliament's website. Should you not wish all, or any, of your contact details to be made available on the website, then you must inform the clerks of this at the time you are objecting. They will then delete this from the web version of that objection but not from the copies placed in the partner libraries for inspection (this version will be useful to objectors in identifying each other should they wish to enter into dialogue where there are objections of a similar nature).

For further details on the Private Bill process and, in particular, the objection process, please contact the Private Bills Unit. For further details on the subject matter of the Bill please contact Pam Thompson at Bircham Dyson Bell, 50 Broadway, London SW1H 0BL or by telephone on 020 7227 7080.

Transport Initiatives Edinburgh
On behalf of The City of Edinburgh Council

Annex 3: Text of notice of council meeting and resolution passed by the City of Edinburgh Council authorising the promotion of the Bill

The City of Edinburgh Council

Statutory meeting under section 82 of the Local Government (Scotland) Act 1973

Notice is hereby given under section 82 of the Local Government (Scotland) Act 1973 that a meeting of The City of Edinburgh Council will be held at City Chambers, High Street, Edinburgh on 22 December 2003 at 10.30 a.m. to consider and, if thought fit, approve and adopt the following resolution:

Proposed Edinburgh Tram (Line Two) Bill

Resolution

That The City of Edinburgh Council do promote a private Bill in the Scottish Parliament for the following purposes:

The construction and operation of a tram line in the City of Edinburgh forming a western course from St Andrew Square, along Princes Street to Haymarket, Murrayfield, South Gyle and Edinburgh Airport, with a shuttle from Ingliston Park and Ride to Newbridge.

The carrying out of such ancillary works as are necessary for the construction and operation of the tram line, including stopping up and interference with roads and crossings of the tram line.

The compulsory acquisition of land required for the construction, operation and maintenance of the works, including the temporary occupation of land and permanent and temporary rights over land, and the extinction of others' rights over land so acquired.

Related ancillary powers such as powers to attach brackets etc. to buildings, to lop trees overhanging the tram line, to enter land for survey purposes, to charge penalty fares, and to carry out works to certain listed buildings.

In connection with the promotion, it is further resolved as follows:

That the appropriate proper officers of the Council be authorised in relation to the Bill to take all steps and do and perform all such acts on behalf of the Council as they may consider necessary or expedient including in relation to—

- the instructing of counsel, agents and witnesses;
- the agreeing of amendments to the Bill;
- the carrying on of negotiations and the making of agreements with third parties;
- the giving on behalf of the Council of undertakings in connection with the Bill;
- and
- the affixing of the Council's Common Seal to any documents.

Annex 4: Text of public notice of intention to promote the Bill

Notice of proposed Private Bill EDINBURGH TRAM (LINE TWO) BILL

The City of Edinburgh Council hereby gives notice that it intends to promote a Private Bill in the Scottish Parliament on or after 28 January 2004.

The Bill is to be called the Edinburgh Tram (Line Two) Bill and it will authorise the construction and operation of a tram line in Edinburgh. The line will form a western course from St. Andrew Square, via Princes Street, Haymarket, Murrayfield and South Gyle to Edinburgh Airport and Newbridge.

When it is introduced in the Parliament, the Bill will be accompanied by the following documents:

- Explanatory Notes*
- Promoter's Statement*
- Promoter's Memorandum*
- Estimate of Expense and Funding Statement*
- Statement by the Presiding Officer of the Parliament on the legislative competence of the Bill*
- Assigination of copyright and licensing agreement
- Environmental Statement
- Set of maps, plans and sections
- Book of Reference

From the day after it is introduced in the Parliament, the Bill and the documents marked with an asterisk above will be available free of charge on the Parliament's website (www.scottish.parliament.uk). If possible, and at a later date, the Environmental Statement will be made available on the Parliament's website and the maps, plans and sections on the Transport Initiatives Edinburgh Ltd website (www.tramtime.com).

These documents relate to the Edinburgh Tram (Line Two) Bill (SP Bill 18) as introduced in the Scottish Parliament on 29 January 2004

From the day after introduction, the Bill and all the accompanying documents listed above may be inspected at the following locations:

- Edinburgh Central Library, George IV Bridge, Edinburgh EH1 1EG
- Blackhall Library, 56 Hillhouse Road, Edinburgh EH4 5EG
- Leith Library, 28-30 Ferry Road, Edinburgh EH6 4AE
- Morningside Library, 184 Morningside Road, Edinburgh EH10 4PU
- Portobello Library, 14 Rosefield Avenue, Edinburgh EH15 1AU
- Wester Hailes Library, 1 West Side Plaza, Edinburgh EH14 2FT.

From the day after introduction, the Bill and the documents marked with an asterisk above may be purchased from The Stationery Office, 71 Lothian Road, Edinburgh EH3 9AZ. The documents without an asterisk may be purchased from Transport Initiatives Edinburgh Ltd, 91 Hanover Street, Edinburgh EH2 1DJ for the following:

- | | |
|--|------|
| • Environmental Statement | £75 |
| • Non-technical summary of the Environmental Statement | £5 |
| • Environmental Statement and non-technical summary on CD-ROM | £15 |
| • Plans and Sections, A1 size | £70 |
| • Plans and Sections, A3 size | £30 |
| • Single sheet of Plans or Sections, A3 size | £3 |
| • Book of Reference | £25 |
| • Assignment of copyright and licensing agreement | £2 |
| • Complete set of above documents (A1 size plans and sections) | £175 |

There is a 60-day period for objections that starts on the day after the Bill is introduced in the Parliament. Details of the admissibility criteria for objections are available from the Clerks, Private Bills Unit, Scottish Parliament, Edinburgh EH99 1SP (0131 348 6789, private.bills@scottish.parliament.uk). Objections must be accompanied by a lodging fee of £20. Objections should be lodged with the Clerks at the Private Bills Unit at the above address, from whom additional information, including detailed guidance about the procedures and an information leaflet for objectors, can be obtained.

Additional information about the content of the Bill may be obtained by writing to Pam Thompson at the address below, or by telephoning 020 7227 7080.

Bircham Dyson Bell
50 Broadway, London SW1H 0BL
14 January 2004

These documents relate to the Edinburgh Tram (Line Two) Bill (SP Bill 18) as introduced in the Scottish Parliament on 29 January 2004

PRESIDING OFFICER'S STATEMENT ON LEGISLATIVE COMPETENCE

321. On 29 January 2004, the Presiding Officer (George Reid) made the following statement:

“In my view, the provisions of the Edinburgh Tram (Line Two) Bill would be within the legislative competence of the Scottish Parliament.”

These documents relate to the Edinburgh Tram (Line Two) Bill (SP Bill 18) as introduced in the Scottish Parliament on 29 January 2004

EDINBURGH TRAM (LINE TWO) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

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