

**CABINET - SUBJECTS FOR CONSIDERATION, 08 AUGUST 2005 11:00 AM**

Not Relevant

**1 New Initiatives/Policy Matters**

Not Relevant

**104 MTR05/045CS**

**Adelaide Light Rail - Procurement of Two Additional  
Tramcars for Further Light Rail Extensions  
APPROVED**

Not Relevant

**TO: THE PREMIER FOR CABINET**

**RE: ADELAIDE LIGHT RAIL – PROCUREMENT OF TWO ADDITIONAL TRAMCARS FOR FURTHER LIGHT RAIL EXTENSIONS**

## 1. PROPOSAL

- 1.1. To purchase two tramcars for a total price of approximately \$12m (subject to adjustment for currency fluctuations and price escalations, and a final price being determined before a Deed of Variation is executed) to provide sufficient rolling stock for the further extension of the light rail network in Adelaide.
- 1.2. To increase the approved total project cost for the Adelaide Light Rail Project from \$71.9m to \$83.9m for the purchase of these two additional tramcars.
- 1.3. For changes in the budget forward estimates to projects within the Transport, Energy and Infrastructure portfolio as listed below, resulting in an impact of \$5.5m on net lending in 2005-06 but a corresponding improvement to net lending in 2006-07.

	2005-06	2006-07	Total
	\$000's	\$000's	\$000's
Light Rail Extension to Brougham Place	-	12,000	12,000
Adelaide Light Rail	-5,500	-6,500	-12,000
<i>Impact on Net Lending</i>	-5,500	5,500	-

- 1.4. For the Minister for Transport to enter into a Deed of Variation to extend the Agreement for the Supply of Tramcars and Support Services with Bombardier Transportation Australia Ltd from nine (9) to eleven (11) new low floor tramcars, with the additional two tramcars being delivered in December 2006.
- 1.5. For a series of progress payments as advance payments over the 2005-06 and 2006-07 financial years which will result in 90% (\$10.8m) of the cost of the tramcars being paid in 2005-06 and note that these progress payments will be protected by Advance Payment Bonds equal in value to the progress payments.

## 2. BACKGROUND

- 2.1. On 24 May 2003, the Premier and the then Minister for Transport announced a State budget allocation of \$56m for the purchase of nine light rail vehicles to replace the Glenelg tram fleet and an up-grade of the track and passenger stops.
- 2.2. On 22 September 2003, Cabinet approved a proposal to purchase rather than lease nine trams. Advice was provided in that cabinet submission on the impact on current TransAdelaide employees involved in the maintenance and operation of trams.
- 2.3. On 23 August 2004, Cabinet approved the Minister for Transport entering into an Agreement for the Supply of Tramcars and Support Services with

- Bombardier Transportation Australia for nine new 70% low floor tramcars with a revised budget of \$71.9m for tramcar purchase and infrastructure up-grade.
- 2.4. The Agreement between the Minister and Bombardier Australia was executed on the 7 October 2004 for a contract price of \$52,318,427.70 (GST incl.). This price included spare parts, special tools, driver and maintenance training and Customs Duty.
  - 2.5. A few minor matters were not concluded at the time of executing the document, including finalising the internal colour scheme of the tramcars and establishing a final inventory for spare parts and special tools. In addition, Bombardier has since offered to produce a mock-up of the driver's desk to assist in driver training and familiarisation. Finalising these matters resulted in a minor cost increase (approx \$150,000) but this has been more than offset by a Customs Duty concession (approx \$787,000) negotiated by my Department. Under the terms of the Agreement any Customs concession obtained results in a price reduction to the Minister. I have recently signed a Deed of Variation to give effect to this change in contract price.
  - 2.6. In the recent Federal Budget it was announced that Customs Duty on imported goods not manufactured in Australia would be abolished. Consequently, a further reduction of 3% is expected on the imported component of the contract price of the trams. A second Deed of Variation will be required to accommodate this further reduction in price. The second Deed will also incorporate the additional cost of having the livery for the trams applied in Germany so that they are "fully dressed" when they arrive in Adelaide. The savings generated by the abolition of Customs Duty and the earlier concession are being applied to a range of items on the infrastructure upgrade, including items previously eliminated from the scope to remain within budget (e.g. security lighting and improvements to points and crossings).
  - 2.7. The first trams are scheduled to arrive in Adelaide on 15-17 December 2005. Currently, the manufacturing process is about two weeks ahead of schedule. This is unlikely to advance the shipping and delivery dates.
  - 2.8. The infrastructure up-grade of the tramway is also proceeding. The tramway was closed on 5 June 2005 and work is proceeding on schedule for the planned re-opening on 8 August 2005.
  - 2.9. On 6 April 2005, the Premier announced that the tramline would be extended from Victoria Square through the centre of King William Street to the Adelaide Railway Station on North Terrace, at a cost of \$21 million. The State Budget provided funds in 2005-06 to commence implementation, and planning for the extension is well advanced with the extension scheduled to be operational in mid 2007.
  - 2.10. On 17 May 2005, the Premier announced that a comprehensive community consultation process would be undertaken to consider options for a further extension of the tramline, including an option to extend the tram to Brougham Place in North Adelaide. Other options to be considered include extending the tramlines further west along North Terrace and possibly into

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Hindley Street and an extension east along North Terrace to the Royal Adelaide Hospital.

- 2.11. The 2005-06 State Budget provides a total allocation of \$30 million over four years from 2005-06 to fund this further extension. The funding is based upon construction of 1.4 km of dual track tramway plus purchase of two trams.

### 3. DISCUSSION

- 3.1. Although funding has been set aside for this further extension, details of the project are yet to be finalised for Cabinet consideration and no other approvals are in place. The community consultation process will commence later this year. It is proposed that the public be invited to make submissions in response to an issues paper that will outline the possible options and associated issues under consideration. The feedback from the submissions received will then be summarised for Cabinet along with a recommended option based upon consultation and business case analysis.
- 3.2. It is clear that, whichever option is approved, additional trams will be required to provide services at an acceptable frequency. The current service between Glenelg and Victoria Square operates with a frequency of 10 minutes during the peak periods and 15 minutes during inter-peak periods. This frequency can be maintained when the tramline is extended to the Adelaide Railway Station using the nine new trams to be delivered this financial year. It will not be possible to maintain this service level on a further extended tram network without additional rolling stock.
- 3.3. When the new trams commence service, TransAdelaide will retain five H class trams for use on weekends (primarily as a tourist attraction) and as emergency backup for the new trams. The low floor trams will also be used on weekends to provide tram services with access for the disabled. Two coupled H class trams have similar total passenger capacity to one of the new low floor Flexity trams, although the Flexity tram has fewer seats than two coupled H class trams. Thus the five retained trams effectively provide two spare tram sets for emergency back up or special events. TransAdelaide does not recommend ongoing regular commuter use of the H-Class trams because of their higher maintenance and operating costs, the cost and availability of additional spare parts, lesser safety provisions, slower service speed and failure to meet the Disability Standards for Accessible Public Transport 2002.
- 3.4. The current contract for nine trams is considered small by comparison to other tram orders (for example Frankfurt has ordered 120 Flexity trams). The Adelaide order has been accepted largely because it has been possible to add it to the Frankfurt production run. This arrangement enables the Adelaide trams to benefit from economies of scale, which is subsequently reflected in the price.
- 3.5. There are two options for procurement of the additional trams that will be required for further extensions of the tram network:
- By means of variation to the existing contract with Bombardier for the supply of the Flexity Classic Trams under the Adelaide Light Rail project.

- By separate call for tenders under the project to further extend the tram network once full details of the tram extension have been approved.
- 3.6. The option to obtain additional trams through a separate call for tenders under the project to further extend the tram network has the following implications:
- It is unlikely that any of the main manufacturers of trams would be interested in such a small order.
  - If a small order was accepted, the costs of production are likely to be very high, which would be reflected in the price.
  - Trams come in set models and, if the trams were produced by a different manufacturer, there is a high probability that it would be different, in some key characteristics, to the trams currently on order in respect of:
    - Floor height and tram width, both of which may create compatibility issues with platform infrastructure;
    - Power requirements of the trams;
    - Additional spare parts and special inventory;
    - Tram operation, resulting in the need for additional operator training; and
    - Maintenance regime, requiring additional maintenance staff training and equipment.
- 3.7. The option to vary the existing contract with Bombardier under the Adelaide Light Rail project would ensure that the additional trams would be exactly the same as the current order, thus overcoming the issues outlined above. The disadvantage of this option is that Bombardier has indicated that, in order to exercise this option, it needs confirmation of an order before the middle of August 2005. Consequently, the Government must confirm its order for additional trams prior to completion of the planning for the further extension.
- 3.8. It is my view that the benefits associated with the option to vary the existing contract with Bombardier significantly outweigh this disadvantage. It is recommended therefore that tenders not be called, but that negotiations are undertaken with Bombardier to extend the current contract. The Director, Contract Services, Department of Administrative and Information Services, has given an indication that an extension of the current contract is likely to be acceptable to the State Supply Board. A formal submission will be made to the Board.
- 3.9. Preliminary negotiations have been undertaken with Bombardier about varying the existing contract. If an order is lodged for two additional trams, it is unlikely that these trams could be included in the current production run of the nine trams on order. Bombardier has indicated that the two additional trams could be added to the end of the production run of the remaining Frankfurt trams. This would result in a later delivery date, at this stage estimated to be December 2006.
- 3.10. Negotiations with Bombardier have not yet extended to establishing a firm price for each tram. It is expected that the total cost for each tram will be less than \$6m each. Some escalation in price is expected due to the later

time of manufacture but this is offset by the combined effects of Customs Duty no longer being applicable, the existing inventory of spare parts and special tools not needing to be supplemented and no need to include costs for training TransAdelaide personnel. There is also uncertainty in relation to the effects of currency exchange rates.

3.11. The previous arrangement for exchange rates was that the Government bore the currency risk until the contract was signed and then the currency risk transferred to Bombardier. A similar arrangement will be sought during these negotiations.

### 3.12. Economic, Financial and Budgetary Implications

3.12.1. A budget of \$30m has been allocated for the further tram extension project. Notionally, \$12m has been allocated for the purchase of two additional trams and their commissioning. It is proposed that this funding be used to offset the increase in expenditure under the Adelaide Light Rail project for the purchase of the two additional trams. Bombardier has provided preliminary advice that the unit price of the tram will be of the order of \$5.5m but this figure is subject to currency fluctuations and further negotiation. The budget allocation of \$12m includes provision for all costs including escalation for later manufacture than the existing order, currency fluctuations, project supervision in Germany by an independent third party and commissioning costs. The figure will be adjusted once negotiations have been completed with Bombardier and a Deed of Variation has been established. If the trams are purchased for less than \$12 million, then any savings will be transferred to the budget for the extension of the tramline.

### 3.13. Required resources

3.13.1. The additional services required on the further extension of the tramway will also have implications for TransAdelaide in terms of the number of drivers and conductors required, and possibly also to the number of personnel required to maintain and service the trams. If additional TransAdelaide personnel are required, the implications for the TransAdelaide recurrent budget will need to be factored into future budgets.

3.13.2. For the initial order of 9 trams, Bombardier required advance payments amounting to 90% of the purchase price in three tranches within 195 business days of the order being placed. These pre-payments provide the manufacturing finance for the trams and reduced Bombardier's risk from currency fluctuations. It is anticipated that Bombardier will again look for advance payments for the two additional trams although, because of the sums involved, it is proposed that these will be confined to one or two tranches.

3.13.3. The progress payments will again be secured with an advance payment guarantee of the same amount as the progress payment issued by an approved bank on unconditional terms.

3.13.4. Currently, the Budget shows expenditure for the purchase of trams occurring in 2006-07 under the project Light Rail Extension to

Brougham Place. Under this proposal, the pre-payment for the trams will occur in 2005-06. In terms of budget impact, \$5.5 million of this pre-payment will need to be recognised as expenditure in a Budget adjustment to reflect the works in progress. This is consistent with the accounting policy applied for the recognition of expenditure associated with the prepayments for 9 trams currently under construction.

- 3.13.5. The changes to the budget forward estimates for projects within the Transport, Energy and Infrastructure portfolio under this proposal result in an impact of \$5.5m on net lending in 2005-06 but a corresponding improvement to net lending in 2006-07 as shown below.

#### BUDGET IMPACT

	2005-06	2006-07	Total
	\$000's	\$000's	\$000's
Light Rail Extension to Brougham Place	-	12,000	12,000
Adelaide Light Rail	-5,500	-6,500	-12,000
<i>Impact on Net Lending</i>	-5,500	5,500	-

- 3.13.6. Cabinet should be aware that the tram price is subject to currency fluctuations. The original price, although quoted in Australian Dollars, is based on the imported component being priced out of Germany in Euros. The currency exchange rate will need to be established during negotiations.
- 3.13.7. Although hedging of the currency was undertaken for the nine trams due to the time gap between Cabinet approval and the eventual time when the Agreement was executed, it may not be necessary to hedge the two tram purchase because of the expected minimal time between Cabinet approval and the execution of the Deed of Variation. SAFA advice will be sought on this matter at the time.
- 3.13.8. The proposed procurement of the additional trams falls within the scope of the Australian – American Free Trade Agreement. The Agreement does, however, provide an exemption for the procurement of additional goods from the original supplier through its Government Procurement Article 15.8, Limited Tendering clause 1 (c).

#### 3.14. South Australia's Strategic Plan

The proposal increases the capacity of Adelaide's public transport system, thus providing a direct contribution to target 3.9 of the SA Strategic Plan which is to double the use of public transport to 10% of weekday travel by 2018.

#### 3.15. Impact on the Community and the Environment

##### 3.15.1. impact on Families and Society

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

- The Commonwealth's Disability Discrimination Act (DDA) requires infrastructure associated with public transport (including rolling stock, train stations, bus terminals and interchanges) to comply with the Disability Standards for Accessible Public Transport 2002. These Standards have been used in the development of both the upgraded service and the planned extensions.

#### 3.15.2. Regulatory Impact

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

#### 3.15.3. Regional Impact

There is no regional impact.

#### 3.15.4. Impact on Small Business

The combined effect of new trams, improved infrastructure and network extensions is anticipated to increase patronage, which may increase residential density along the tramway and possibly increase local property values. Easier access may make it more attractive for people to travel by tram, providing a consequential benefit to small traders along the light rail route.

#### 3.15.5. Environmental Impact

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

- Encouraging increased passenger use with subsequent decrease in private car use, traffic congestion and greenhouse effects.
- The trams having regenerative braking and being able to return power to the system.
- The trams being low noise and low vibration with lower impacts than other heavy vehicles using the same roadways.
- The streetscape of the track extensions being designed in conjunction with the Adelaide City Council (ACC) to ensure its compatibility with the adjacent built environment, including consideration for transplanting/replanting of trees as appropriate.

### 3.16. Risk Management Strategy

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

- Financial soundness of the supplier – due diligence assessments have been undertaken of both Bombardier Transportation Australia and Bombardier Inc (Montreal).
- Ability to deliver – in the current contract parent company



guarantees have been obtained from Bombardier Inc to support the obligations of Bombardier Australia. The Deed of Extension will ensure these guarantees are kept in place.

- Security of progress payments – unconditional Advance Payment Bonds will be issued to the Government of a value equal to any progress payments made, and payment milestones are to be subject to independent verification before payment.
- Security of the Advance Payment Bonds – these will be issued by a bank rated by Standard and Poors at least A+ and approved by SAFA.
- Warranty not secured – Bombardier to provide unconditional bank guarantee to the value of 5% of contract price during the warranty period.
- Trams not delivered by December 2006 – a delivery schedule will be established with liquidated damages of 0.05% of the value of a tram, per tram per day, for late delivery.

3.16.2. There are other possible risks and the mitigation strategies are as follows:

- Public rejection of the new trams because of fewer seats - a communication strategy will stress the positive characteristics of the new trams. The seating arrangements are comparable to the new trams in Melbourne. If any commuter resistance is encountered, it is likely that it will manifest itself when the first nine trams are placed in service.
- Cabinet determines that further tram extensions cannot be justified once the detailed planning of the options is complete – the additional trams can be used to increase service frequency and patronage on the Glenelg – North Terrace service. With eleven new trams, frequency and capacity on the tram corridor can be further increased, creating an opportunity to provide connections with bus services that currently use Anzac Highway. By transferring passengers from buses to the tram service, the existing bus fleet could be used more effectively by transferring some buses, currently used on Anzac Highway, to increase passenger capacity on bus routes where overcrowding is being experienced.

### 3.17. Consultation and Lodgement Comments

- The Crown Solicitor's Office drafted the original Agreement and the proposed Deed of Variation.
- SAICORP has been consulted on all insurance matters in the original Agreement to Supply Tramcars.
- The Department of Treasury and Finance has provided advice on budgetary and financial risk matters. It was part of the evaluation process of the tenders for the contract to supply new trams. It has also been consulted on the options for the purchase of the additional trams.
- SAFA has provided advice on financial securities and hedging.
- The State Supply Board has endorsed the original procurement strategy and the Chair of the Board consulted about the purchasing strategy for

the two additional trams. A formal submission will be made to the Board.

- TransAdelaide has assisted in the technical evaluation of the tendered tramcars and has been consulted on time tabling issues and rolling stock needs associated with the further extension.

### 3.18. Implementation Plan

- Upon Cabinet approval, the Deed of Variation to the Agreement to Supply Tramcars and Support Services will be negotiated and, once agreed, will be forwarded for the Minister's signature and seal.
- During the manufacturing process Bombardier is required to provide monthly reports on progress. Independent verification is required before progress payments are made.
- A German based Project Inspector will independently provide monthly reports on the manufacturer's quality controls and progress.
- Bombardier anticipates the additional trams will arrive in December 2006.

### 3.19. Communication Strategy

A communication and consultation strategy will be drawn up in DTEI for the tramline extension project.

### 3.20. Executive Council

Not applicable.

## 4. RECOMMENDATIONS:

It is recommended that Cabinet:

- 4.1. Approve the purchase of two tramcars for a total price of approximately \$12m (subject to adjustment for currency fluctuations and price escalations, and a final price being determined before a Deed of Variation is executed) to provide sufficient rolling stock for the further extension of the light rail network in Adelaide.
- 4.2. Approve an increase to the approved total project cost for the Adelaide Light Rail Project from \$71.9m to \$83.9m for the purchase of these two additional tramcars.
- 4.3. Approve changes in the budget forward estimates to projects within the Transport, Energy and Infrastructure portfolio as listed below, resulting in an impact of \$5.5m on net lending in 2005-06 but a corresponding improvement to net lending in 2006-07.

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- 4.4. Approve the Minister for Transport entering into a Deed of Variation to extend the Agreement for the Supply of Tramcars and Support Services with Bombardier Transportation Australia Ltd from nine (9) to eleven (11)

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new 70% low floor tramcars for the Glenelg to Adelaide City tram service, with the additional two tramcars being delivered in December 2006.


- 4.5. Approve a series of progress payments over the 2005-06 and 2006-07 financial years which will result in 90% of the cost of the tramcars being paid in 2005-06 and the balance on acceptance of the tramcars, and note that these progress payments will be protected by Advance Payment Bonds equal in value to the progress payments.
- 4.6. Note that the underlying principles in relation to the terms and conditions for protecting the Government's advance payments, ensuring contract performance and for the provision of insurances will be substantially similar to those in the original Agreement for the Supply of Tramcars and Support Services.
- 4.7. Note that, because of the anticipated short period between Cabinet approval to purchase and the anticipated execution of the Deed of Variation, SAFA will be consulted on the need to hedge the anticipated purchase price.

***In Cabinet***



HON PATRICK CONLON MP  
MINISTER FOR TRANSPORT

- 8 AUG 2005

APPROVED  
  
A/ PREMIER

1 August July 2005

