

# North Somerset Council

## Report to the Council

**Date of Meeting: 10<sup>th</sup> November 2020**

**Subject of Report: MetroWest Phase 1 Update – Programme and Procurement**

**Town or Parish: All**

**Officer/Member presenting: Cllr James Tonkin, Executive Member for planning and transport**

**Key Decision: No**

### **Reason:**

Not an Executive Decision

### **Recommendations**

The Council is asked to:

1. Note that the Development Consent Order (DCO) examination for MetroWest Phase 1 has commenced five months later than expected at the point of when the DCO Application was submitted in November 2019, causing a knock-on delay to the overall delivery programme timescales, as indicated in figure 1.1. Officers from NSC & WECA are working with senior colleagues Network Rail and the Department for Transport on solutions to mitigate this projected time delay
2. Notes the above time delay is one of five key strategic risks that have been reported previously. Figure 1.1. profiles these strategic risks against the project programme prior to any mitigation. Senior officers are working closely with senior colleagues at Network Rail and the Department of Transport to mitigate these risks which will inform timely decisions to be brought forward to the respective NSC, WoE and WECA decision making bodies for approval, following full scrutiny engagement.
3. Agree to approve delegated authorisation to the Chief Executive to finalise the project Delivery and Procurement Strategy together with the Chief Executive of the West of England Combined Authority (WECA), as per the June 2020 WoE report in consultation with the Executive Member for Planning and Transport, the Director of Development and Environment, the Head of Legal and Democratic Services & the Director of Finance and Property The guiding principles of the project Delivery and Procurement Strategy are set out in paragraph 6.1 of this report.
4. Agree to approve delegated authorisation to the Director of Development & Environment in consultation with the Executive Member for Planning and Transport, the Head of Legal and Democratic Services & the Director of Finance and Property

to enter into a side agreement with the West of England Combined Authority (WECA) in relation to cost, risk and liability sharing arising from NSC entering into agreements with statutory undertakers (mostly utility companies), for works to divert, protect and create new connections. The guiding principles of the side agreement are set out in paragraph 7.10 of this report.

5. Agree to approve delegated authorisation to the Director of Development & Environment in consultation with the Executive Member for Planning and Transport, the Head of Legal and Democratic Services & the Director of Finance and Property to enter into agreements with statutory undertakers for works to divert, protect and create new connections, including the following companies:
  - I. Bristol Water
  - II. CLH Pipeline System (CLH-PS) Limited
  - III. Wales and West Utilities
  - IV. Wessex Water
  - V. Western Power Distribution
  - VI. National Grid Electricity Transmission
  - VII. Bristol Port Company

The liabilities and risks associated with these agreements is set out in section 7 of this report and a risk assessment is attached in appendix 2.

## **1. Summary of Report**

- 1.1. MetroWest Phase 1 (the Project) proposes to upgrade the existing local train service for the Severn Beach Line and the Bath Spa to Bristol Line (Phase 1A) and re-open the Portishead rail line with stations at Portishead and Pill (Phase 1B). The Project is being promoted by North Somerset Council and the West of England Combined Authority (WECA) on behalf of the authorities across the West of England including; Bath & North East Somerset, Bristol City and South Gloucestershire Councils. The Project forms part of a wider MetroWest programme to deliver strategic enhancements to the local rail network over the next 10 years.
- 1.2. The core element of MetroWest Phase 1 in respect of infrastructure is Phase 1B, the reopening to passenger services the Portishead Branch Line railway. Phase 1B is a Nationally Significant Infrastructure Project (NSIP) and therefore requires a DCO for powers to build and operate the railway.
- 1.3. The DCO application was accepted by the Planning Inspectorate in December 2019 and a decision from the Secretary of State is anticipated by December 2021. Following the completion of formal DCO processes including serving the DCO Application on statutory undertakers in early 2020, the DCO examination was expected to commence in May 2020. However, the outbreak of the Covid 19 pandemic delayed the start of the examination to October 2020. The timetable for the DCO examination is set out in a 46 page letter issued by the Examining Authority on 7<sup>th</sup> September 2020. The letter is known as the Rule 6 letter and is attached in appendix 1. The first hearing (Preliminary Meeting Part 1) commenced on 6<sup>th</sup> October 20 covering procedural matters. Part 2 of the Preliminary Meeting is scheduled for 19<sup>th</sup> October 2020, after which the DCO examination commences in earnest, comprising a combination of written representations and hearings over a 6 month duration.

- 1.4. The initial assessment of the impact of Covid 19 on the project's programme is a delay of approximately nine months to the project opening. This comprises the five month delay to the DCO examination and consequential programme impacts resulting in an estimated overall delay of nine months, resulting in a revised estimated opening date for the Portishead Line (start of train services) of December 2024.
- 1.5. In respect of the proposals for the Severn Beach Line and the Bristol to Westbury Line, the scope of the infrastructure works has reduced which entails relatively modest works to a small number of level crossings. The design of these works is progressing and no planning consent or land acquisition is required. The timescale for completing these works and commencing the enhanced train service remains December 2021. Further information about these proposals will be reported to the WECA Committee in December 2020.
- 1.6. It is not possible at this stage to identify the full impact of Covid 19 on the whole project and associated financial pressures. However, the spend associated within this report is within the already secured funding for MetroWest. The significant majority of spend for MetroWest at this stage is with professional services, which are able to continue operating efficiently under the current Covid-19 government guidelines.
- 1.7. The Government has sent a clear message; citing construction as an important part of our working economy and a major catalyst for regional and national growth. Construction work is fundamental to providing important facilities for the future— including health, education, leisure, commercial that our communities need to support their prosperity.
- 1.8. In parallel with the DCO examination, the other DCO aspects of the project continue to be progressed. This includes further development of the project Delivery & Procurement Strategy jointly with WECA. The Delivery & Procurement Strategy sets out a route to market via design & build contract/s, where initially only the detailed design element of the contract will be awarded, with the option to award the construction element of the contract following the completion of major processes including the DCO decision and Full Business Case approval.
- 1.9. This report seeks approval to delegate authorisation to the Chief Executive to finalise the project Delivery and Procurement Strategy together with the Chief Executive of WECA. This report also seeks approval to delegate authorisation to the Director of Development & Environment to enter into a side agreement with WECA ) in relation to cost, risk and liability sharing arising from NSC entering into agreements with statutory undertakers and also to delegate authorisation to the Director of Development & Environment to enter into agreements with utility companies for works to divert, protect and create new connections.

## 2. Policy

- 2.1. The project is identified in the Joint Local Transport Plan 4, and North Somerset's Core Strategy as a priority for early delivery. Re-opening the Portishead line was also included in the 2007 Replacement Local Plan and successive Local Plans over a number of decades. MetroWest contributes to the package of infrastructure to support the delivery of housing land in North Somerset through urban intensification, job creation and sustainable growth. As part of a wider package of public transport advancements across North Somerset and the region, the project will deliver modal shift from car use and improve the resilience of the existing and future highway network.
- 2.2. The delivery of the project aligns with the vision and priorities set out in the North Somerset Council Corporate Plan 2020 – 2024. The project underpins 'An open, fair and green North Somerset Council', through the delivery of a mode of transport that will be accessible to young people and elderly people (many of whom have limited access to transport), with step free access to station platforms enhancing transport equality. This is reflected in the Council's priorities to achieve:
- A thriving and sustainable place
  - A council which empowers and cares about people
  - An open and enabling organisation
- 2.3. In addition to these social wellbeing benefits, the project will also deliver substantial economic benefits which are summarised in the table 1 below.

Table 1. Summary of Project Economic Benefits

<b>Description</b>	<b>Whole of MetroWest Phase 1 Severn Beach Line, Bath Spa Line &amp; Portishead Line</b>	<b>Portishead Line (DCO Scheme)</b>
Modal Shift	Reduction of 580 car trips per day in the opening year, increasing to 890 less car trips per day by 2036	Reduction of 294 car trips per day in the opening year, increasing to 415 less car trips per day by 2036
Job Creation	514 net new direct permanent jobs + temporary jobs during construction	207 net new direct permanent jobs + temporary jobs during construction
Gross Value Added (GVA) to the economy	£31.87 PA in the opening year, totalling £271M discounted GVA during the first 10 years. Plus a further £59.27M during construction	£12.95 PA in the opening year, totalling £139M discounted GVA during the first 10 years. Plus a further £54.78M during construction
Forecast Rail Passenger demand & number of train sets	2021: 958,980 passenger trips 2036: 1,295,103 passenger trips 6 train sets (including 2 existing train sets on the Severn Beach Line)	2021: 377,021 passenger trips 2036: 509,167 passenger trips 1 train set

Population Benefiting	Will upgrade the existing train service at 16 existing stations across three rail corridors, directly benefiting 180,000 people within a 1km catchment and bring an additional 50,000 people within the catchment of the 2 new stations. The total population benefiting from the project is 230,000.	Will bring an additional 50,000 people within the immediate catchment of the 2 new stations at Portishead and Pill
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Detailed information about the project benefits is set out in the project Outline Business Case, which was completed in December 2017. The Outline Business Case is available at [www.travelwest.info/projects/MetroWest](http://www.travelwest.info/projects/MetroWest).

- 2.4. The MetroWest programme involves delivering targeted enhancements to the existing local rail network, in parallel with re-opening strategically important disused rail lines. In recognition that not all the proposals can be delivered at once, WECA and North Somerset are taking a phased approach to delivery through MetroWest Phase 1, Phase 2 and a range of smaller scale improvements to the regional rail network.
- 2.5. In December 2014 the Department for Transport published its ‘National Policy Statement for National Networks’. The National Policy Statement (NPS) is underpinned by legislation (the 2008 Planning Act) and sets out the Government’s priorities and policy direction for the national road and rail networks. The NPS sets out the need for substantial further investment in the rail network as a result of sustained increasing demand for both passenger and freight train services over the last two decades. The NPS states that delivering Nationally Significant Infrastructure Projects (NSIPs) will play a key part of the strategy for ensuring the national road and rail networks have sufficient capacity to meet the increasing demand.
- 2.6. The Secretary of State will use the NPS as a primary basis for making decisions on applications for a Development Consent Order (DCO) for NSIPs. MetroWest Phase 1 is an NSIP and consequently a DCO is required.

### 3. Background

- 3.1. MetroWest Phase 1 is a major cross boundary rail scheme that proposes to re-open the Portishead rail line (MetroWest Phase 1 B) with stations at Portishead and Pill and operate an hourly passenger train service, with the possibility of an additional train in the morning peak and evening peak (hourly plus). This will entail operating up to 20 passenger trains in each direction per day Mon to Sat, with a reduced number of trains operating on Sundays. The project will also upgrade the existing local train service for the Severn Beach Line and the Bath Spa to Bristol Line (MetroWest Phase 1A). This will entail a half hourly passenger train service for local stations to Avonmouth (hourly for St. Andrews Road and Severn Beach stations) and a half hourly service for local stations between Bristol Temple Meads and Bath Spa. The option to extend the Phase1A service beyond Bath Spa to Westbury was approved by the WoE Joint Committee in June 2020.

- 3.2. The project is being promoted by North Somerset Council and WECA on behalf of the authorities across the West of England; Bath & North East Somerset, Bristol City and South Gloucestershire Councils. The project forms part of a wider MetroWest programme to deliver strategic enhancements to the local rail network.
- 3.3 The joint working arrangements between the Council and WECA up to Full Business Case approval are set out in the Initial Promotion Agreement version 3. Authorisation to enter into Initial Promotion Agreement version 3 was given by the Council at its meeting on 12<sup>th</sup> February 2019 and by WECA on 14<sup>th</sup> June 2019. The agreement was signed 30<sup>th</sup> September 2019. All financial liabilities, under the Third Initial Stage of the project, will be apportioned between the Joint promoting Authorities on a 50/50 basis, based on an out-turn scheme cost of £116m. Neither party has agreed to any risk share beyond this agreement or outside of the out-turn scheme costs reference in the paper.
- 3.4 Once Full Business Case (FBC) approval is achieved, the Joint Promoters will enter into further legal agreements, relating to the delivery of the project. These agreements, depending on procurement route, will apportion risk across all parties and will be reported back Full Council for approval, following FBC. Any risk share between the Joint Promoters, relating to their apportionment under the future agreements, would be discussed on 50/50 risk share basis in accordance with the November 2018 Joint Committee approval, on which the IPA3 is based.

### Project Objectives

- 3.5. The project objectives are focused on providing a long term enhancement for the Portishead to Bristol corridor and the Severnside/Avonmouth to Bath corridor.

The principal objectives are:

- To support economic growth
- To deliver a more resilient transport offer
- To improve accessibility to the rail network
- To make a positive contribution to social well-being

The supporting objectives are:

- To contribute to reducing traffic congestion
- To contribute to enhancing the capacity of the local rail network
- To contribute to reducing the overall environmental impact of the transport network

- 3.6. The objectives are particularly relevant for persons of limited mobility or who do not have regular access to a car. The re-opening of the Portishead branch line will dramatically reduce journey times for the corridor which will not erode over time. The project will increase the number of people living within 30 minutes' travel time of key employment areas such as the Temple Quarter Enterprise Zone and the sub-region's Enterprise Areas. This will generate a series of wider economic benefits, and will increase business competitiveness, productivity and investment confidence. By constructing a new railway on the former trackbed and utilising the Portbury Freight Line, the DCO Scheme is efficient in terms of cost and land requirements, to

provide a new mode of public transport (since the curtailment of passenger train services in 1964) on the 15 kilometre corridor between Portishead and Bristol.

#### **4. DCO Examination**

- 4.1. The Planning Inspectorate confirmed acceptance of the DCO application on 12<sup>th</sup> December 2019. The application documents have been uploaded onto the Inspectorates website:  
<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/portishead-branch-line-metrowest-phase-1/?ipcsection=docs>
- 4.2. Following the completion of formal DCO processes including serving the DCO Application on landowners and statutory undertakers in early 2020, the DCO examination was expected to commence in May 2020. However, the outbreak of the Covid 19 pandemic delayed the start of the examination to October 2020. The timetable for the DCO examination is set out in a 46 page letter issued by the Examining Authority on 7<sup>th</sup> September 2020. The letter known as the Rule 6 letter and is attached in appendix 1.
- 4.3. The rule 6 letter sets out nine mandatory deadlines and the Applicant (NSC) must complete all the tasks for each deadline on time, otherwise this would increase consenting risks, prolong the consenting process and potentially cause reputational issues for the council. NSC (supported by WECA) are now committed to progressing through the DCO examination.
- 4.4. The first hearing (Preliminary Meeting Part 1) commenced on 6<sup>th</sup> October 2020 covering procedural matters. Part 2 of the Preliminary Meeting is scheduled for 19<sup>th</sup> October 2020. This meeting will deal with further procedural matters in the afternoon and in the evening will be an 'Open Floor Hearing' for any interested parties to express their views on the proposals. After the 19<sup>th</sup> October 2020 meeting the DCO examination commences in earnest, comprising a combination of written representations and hearings over a six month duration, presided by two planning inspectors known as the 'Examining Authority'. A decision on the DCO by the Secretary of State for Transport is anticipated by December 2021.

#### **5. Programme Update & Covid 19 Impacts**

- 5.1. The initial assessment of the impact of Covid 19 on the project's programme is a delay of approximately nine months to the project opening. This comprises the five month delay to the DCO examination and consequential programme impacts resulting in an estimated overall delay of nine months, resulting in a revised estimated opening date for the Portishead Line (start of train services) of December 2024.
- 5.2. The five month delay to the DCO examination has resulted in some knock-on impacts in respect of ecology season interfaces, where protected species can only be moved and works can only be undertaken within a specific months of the year. These timescales differ greatly between the respective protected species, resulting in a complex ecology season sub-programme. These ecology season impacts over the duration of the construction phase of the project have resulted in further four months of delay, causing an overall delay of nine months to project opening. The

combined NSC & WECA Project Team are currently developing the programme further and will explore opportunities to advance aspects of the programme where possible, to ideally deliver project by March 2024 (within what is known as Control Period 6 in the rail industry).

- 5.3. In respect of the proposals for the Severn Beach Line and the Bristol to Westbury Line, the scope of the infrastructure works has reduced which entails relatively modest works to a small number of level crossings. The design of these works is progressing and no planning consent or land acquisition is required. The timescale for completing these works and commencing the enhanced train service remains December 2021. Further information about these proposals will be reported to the WECA Committee in December 2020.
- 5.4. It is not possible at this stage to identify the full impact of Covid 19 on the whole project and associated financial pressures. However, the spend associated within this report is within the already secured funding for MetroWest. The significant majority of spend for MetroWest at this stage is with professional services, which are able to continue operating efficiently under the current Covid-19 government guidelines.
- 5.5. The Government has sent a clear message; citing construction as an important part of our working economy and a major catalyst for regional and national growth. Construction work is fundamental to providing important facilities for the future—including health, education, leisure, commercial that our communities need to support their prosperity.
- 5.6. The construction sector is a critical part of a functioning UK economy, employing approximately 3.3 million people and responsible for between 12 to 14% of our GDP. The industry will play a crucial role in the delivery of any recovery from the impact of Covid-19, and in the delivery of many of the priorities discussed in the recent Budget, including levelling up, raising productivity and achieving Net Zero Carbon by 2050. The industry acts as a vital growth multiplier, with every pound spent on construction and infrastructure generating a total of £2.84 in total economic activity. The summary of the economic benefits, in table 1 below, underpin the overall business case for MetroWest and with the challenges ahead, hold an even greater importance to the recovery of North Somerset and the wider region.

## **6. Delivery & Procurement Strategy**

- 6.1. Work is progressing on the Delivery & Procurement Strategy jointly with WECA and Network Rail. The Guiding Principles of the strategy are:
  - Programme: identify opportunities for reduced timescales to enable delivery within Control Period 6 (by 31 March 2024).
  - Efficiency: drive efficiency in the design and construction phase, promote innovative thinking and reduce interface risk.
  - Agility: ensure a realistic and reasonable price and programme before commencing construction that incorporates changes arising from the DCO, HRA, detailed



design and construction planning, at the same time as providing the opportunity for innovative design and delivery solutions.

- Risk & Costs: address interface risk through minimising hand over milestones, separating works over space or time, and minimising interfaces between the client owned scope and NR delivered scope.
- Network Rail relationship: Creation of a 'one team' culture through the creation of a client.
- Network Rail integrated delivery team to ensure that they are partners in delivering the works and have a vested interest in project success. Effective liaison with the train and freight operators. Smooth hand back of assets following approval for passenger use.
- Covid 19: to ensure risks associated with Covid-19 uncertainty can be managed

6.2. The strategy entails a route to market via design & build contracts, where initially only the detailed design element of the contracts will be awarded, with the option to award the construction element of the contracts following the completion of major processes including the DCO decision and Full Business Case approval.

6.3. A range of options are being discussed with WECA regarding how the structure of the contracts should be packaged and which organisation should procure and manage which contracts. These discussions entail detailed technical and commercial considerations with Network Rail in the context of the highly regulated nature of the rail industry. The WoE Joint Committee delegated responsibility for agreeing procurement strategy for MetroWest 1b for detailed design and construction to the WECA and NSC CEOs, subject to funding, on 19<sup>th</sup> June 2020. Authorisation is therefore sought for the approval of delegated authorisation the Chief Executive to finalise the project Delivery and Procurement Strategy together with the Chief Executive of WECA.

6.4. Following the finalisation of the Delivery & Procurement Strategy by the end of November 2020, the documents for the invitations to tender will be finalised and issued to the market in early 2021. An Implementation Agreement and other related agreements with Network Rail will need to be entered into in early 2021. The successful contractor/s will then be appointed in the summer of 2021. A report will be brought back to the Council or the Executive in due course seeking authorisation to enter into the agreements with Network Rail and for the award of contracts.

## **7. Statutory Undertaker Protective Agreements**

7.1. Along the 14 kilometres of railway (5km of dis-used railway and 9km of operational railway), there are 53 interfaces with utility apparatus. Some of the utilities are within land owned by the Council, some are within land owned by Network Rail and

some are within land owned by third parties which is to be acquired either temporarily or permanently.

- 7.2. In order to deliver the construction works, the project needs to divert or protect these utilities. Negotiations have taken place between the project team and consultants and the relevant statutory undertaker. There are major utilities interfaces at:
- Portishead, where Quays Avenue is being moved westward,
  - Sheepway, with the Hinkley Connection DCO Project' overhead and underground cables
  - Portbury, with a fibreoptic cable owned by Openreach.
  - Clanage Road, Bristol where a construction compound is proposed which will then become a smaller maintenance compound.
  - Winterstoke Road, Bristol where alterations are proposed to enhance the inbound access to Ashton Vale Road.
- 7.3. As part of the DCO process it is necessary for the Applicant (NSC) to enter into Protective Agreements with statutory undertakers, in respect of the project's proposals to divert and protect utility apparatus. If agreement is not reached with the statutory undertakers before the end of the DCO examination (by April 2021), then land or rights of the statutory undertakers (including utility companies may only be compulsorily acquired to deliver the project if the Secretary of State is satisfied that the land or rights can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or if purchased it can be replaced by other land or rights belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking. This would present a major risk to achieving a successful DCO decision from the Secretary of State for Transport, and entering Protective Agreements with the statutory undertakers is proposed in order to remove/mitigate that risk.
- 7.4. The Protective Agreements are based on template agreements issued by each statutory undertaker and are structured to protect the technical and commercial interests of the company. The agreements include provisions relating to the level of insurance cover and extent of financial liabilities on the DCO Applicant (NSC). In some instances, the financial liabilities are uncapped to reflect a theoretical worst case scenario where an outside party accidentally damages the utility apparatus and this results in a loss of service to the company's customers, triggering a need for major compensation to customers as well as rectification to the utility apparatus. In a very extreme event this could affect tens of thousands of households and businesses which could give rise to a very substantial total compensation sum.
- 7.5. These agreements are not new to the Council, they are routinely entered into for the delivery of the Council's major highway schemes. They are largely in standard form, issued by each statutory undertaker when any major infrastructure project may impact on the company's operational land and/or apparatus. The risk exposure to the Council will be reduced by the transfer of liability, where possible, from the Council to its contractors, and also by the Council and its contractors working closely with the statutory undertaker to reduce the risk of damage being caused to

the utility's apparatus or operations. Furthermore, the Council's current corporate insurance policy includes the following cover:

- Public Liability - £50M any one occurrence
- Employers Liability - £50M any one occurrence
- Products Liability - £50M any one occurrence
- Professional Liability - £5M any one occurrence

- 7.6. However, there remains a residual risk to the Council in the unlikely occurrence of an extreme event of damage being caused to utility apparatus. To mitigate this risk the project team have undertaken a risk assessment of the utility interfaces, which is attached in appendix 2. The risk assessment has considered the impact of damage being caused to utility apparatus under three main headings of; cost implications, reputational implications and safety implications alongside the likelihood of the risk occurring in the context of the information obtained about the type of utility, its location and depth below ground or height above ground. In many instances trial holes have been dug to confirm the location of the utility.
- 7.7. Of the 53 utility interfaces summarised in the attached risk assessment, 9 have been scored an Amber risk rating, with the remaining 44 interfaces scoring a Green risk rating. None of the utility interfaces have been scored a Red risk rating. The risk assessment is a live document and project team will review and update it throughout the detailed design stage and throughout the construction phase of the project. Should any risks increase, they will be reported through the project's governance structure and appropriate mitigations will be deployed.
- 7.8. It is now necessary for the Council to enter into protective agreements with the following statutory undertakers:
- Bristol Water
  - CLH Pipeline System (CLH-PS) Limited
  - Wales and West Utilities
  - Wessex Water
  - Western Power Distribution
  - National Grid Electricity Transmission
  - Bristol Port Company
- 7.9. A protective agreement is needed with Bristol Port Company because the project needs to upgrade signalling equipment located on a 500 metre section of railway owned by the Port, between the dock gates and Pill village. As signalling equipment is a highly specialised and safety critical field of expertise, the upgrade works will be undertaken by Network Rail on behalf of the Council and WECA and this will be included in the agreement with Network Rail, set out in paragraph 6.4.
- 7.10. While the project is being promoted jointly by the Council and WECA with cost, liabilities and risk shared on a 50/50 basis, it is not practical for the protective agreements with the statutory undertakers to be entered into jointly by the Council and WECA. Therefore, the agreements will be between Council and the respective statutory undertakers. In order to ensure that the Council is able to share the residual risks on a 50/50 basis with WECA, it is necessary for the Council and

WECA to enter into a utilities side agreement. The utilities side agreement is currently being drafted, however the Guiding Principles are as follows:

- Relevant terms of Initial Promotion Agreement version 3 (IPA3) between the Council & WECA to be adapted and imported to the side agreement including scheme objectives, principles of collaboration, project governance and promotion of the project
- WECA expressed to have sight of and agrees the final utility interface schedule of risks prepared by the Council
- Agreement of the parties to share all liabilities (including revenue reversion (see below)) evenly (50:50 basis) beyond the date of legal effect or termination of in IPA3 until project completion or further legal agreement (Joint Promotion Agreement)
- Sharing liability includes joint liability to perform obligations under the DCO and any agreements reached with third parties, including any utility companies
- Financial obligations under IPA3 to extend to project completion or date of further legal agreement between the parties.
- Guiding principles of Delivery and Procurement Strategy to be imported to side agreement.

7.11. Approval is now sought to delegate authorisation to the Director of Development & Environment to enter into agreements with statutory undertakers for works to divert, protect and create new connections and to mitigate the risks inherent in entering those agreements to delegate authorisation to the Director of Development & Environment to enter into a side agreement with WECA and note that those remaining risks will be further mitigated by insurance cover and passing remaining risk to contractors in due course when construction contracts are let.

## **8. Consultation**

8.1. As part of the formal pre-application requirements the Council prepared two Statements of Community Consultation and consulted in line with the provisions of the document, in accordance with the requirements of the 2008 Planning Act. It has also engaged in extensive "informal" consultation with affected stakeholders and interested parties.

8.2. Communities, stakeholders, land owners, statutory bodies and affected parties are required to be consulted during the pre-application stage. The project took the opportunity to undertake two stages of consultation. Stage 1 consultation on re-opening the Portishead Branch Line was undertaken between June and August 2015 and Stage 2 consultation was undertaken between October and December 2017, with an extension of time for a small number of statutory bodies into 2018. Stage 2 was the formal DCO consultation and this included statutory bodies, land owners, government agencies and departments, and parties directly affected by the proposals. Wider stakeholders including local community groups, non-statutory

bodies and the wider public etc, were consulted in both Stage 1 and Stage 2, in accordance with the project's Statements of Community Consultation.

- 8.3. The response to the consultations was very high with almost 2,000 separate responses received over both stages and the level of support for the scheme is also very high with 95% of community respondents fully or mainly in support of the proposals. Further information on the project consultation is set out in the DCO Consultation Report which is a DCO application document and is available from:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/portishead-branch-line-metrowest-phase-1/?ipcsection=docs>

## 9. Financial Implications

- 9.1. The estimated capital out-turn cost of the project is £116.4M, as set out in detail in the project Outline Business Case in December 2017, of which £21.347M has been spent to date, up to the end of September 2020. The project budget sources and spend are set out in the table 1 below.

Table 1. Project Budget

Funding Source	Total Funding Secured	Spend to date 20-21 Month 6
Local Growth Funding (Prep Costs Award 2015)	£8,846,000	£8,846,000
Local Growth Funding (Prep Costs Award 2018)	£1,700,000	£1,700,000
Local Growth Funding (Prep Costs Award 2019)	£500,000	£500,000
Local Growth Funding (Prep Costs Award 2019)	£11,650,719	£4,697,172
Change Request Aug 2020 to swap LGF to EDF	<b>-£1,672,000</b>	n/a
<b>Total Local Growth Funding</b>	<b>£21,024,719</b>	<b>£15,743,172</b>
Economic Development Funding (Swapped with LGF)	£30,703,281	£0
Change Request Aug 2020 to swap LGF to EDF	£1,672,000	n/a
<b>Total Economic Development Funding</b>	<b>£32,375,281</b>	£0
Contributions to date by four Councils	£4,413,000	£4,413,000
NSC additional contribution Dec 17	£5,860,000	£1,190,589
WECA contribution Infrastructure Fund Dec 17	£5,860,000	£0
NSC additional contribution	£15,000,000	£0
DfT Contribution via CP6 Rail Network Enhancements Pipeline	£31,900,000	£0
<b>Total</b>	<b>£116,433,000</b>	<b>£21,346,761</b>

- 9.2 To date £15,743,172M of Local Growth Funding (LGF) has been spent on preparation costs, the remainder has been allocated from local contributions from the authorities. The Council authorised the spend of £4.491M for 2019/20 and £7.159M for 2020/21 (totalling £11.650M) of Local Growth Funding at its meeting of 19<sup>th</sup> February 2019, to complete work feeding into the Final Approval Business Case.
- 9.3 The forecast spend for the 2020/21 is up to £6,391,676, comprising of up to £6,391,676 of professional services, and up to £225,000 for land acquisition. As a

result the total spend of Local Growth Funding by March 2021 is forecast to be £21,024,719. Given that Local Growth Funding must be spent by March 2021 otherwise is returned to central Government. A sum of £1,672,000 of Local Growth Funded has been swapped with Economic Development Funding. Table 2 below sets out the forecast spend for 2020/21.

Table 2 Forecast Spend for 2020/21

Cost centre	2020/21 Estimate
KDT501 - Design – Rail	£1,990,000
KDT502 – Environment	£710,000
KDT503 - Modelling & Appraisal	£40,000
KDT504 - Design – Highways	£450,000
KDT505 - Commercial & Procurement	£60,000
KDT506 - Local Communications	£12,000
KDT507 - Legal & Planning	£1,912,498
KDT509 - Programme Management	£0
KDT510 - Project Management	£680,000
KDT511 – Land & Property Services excl land acquisition	£280,000
<b>Total</b>	<b>£6,134,498</b>

9.4 The project has a quantified risk register with a total risk allowance of £22M allocated within the £116M overall project budget, this is detailed within the risk section below and broken down in figure 1.1. against the project programme. However, there are some key financial risks, which require highlighting as follows.

- Review of the impact of Covid-19 on market prices and likely programme delay. Discussions are taking place at a senior level of understand the full impact of this fast moving situation.
- As the project is utilising capital funding there remains a risk of revenue reversion should the project not be delivered. In such an event if part of the project is delivered it may be possible to limit the revenue costs arising, through the submission of the DCO, delivery of phase 1A and the purchase of any assets.
- Further work is underway to refresh estimated delivery costs post submission of the DCO Application. Any change to the £116M, current estimated capital out-turn, will be taken through the Governance boards and reviewed in the context of the existing project risk allowance, design and procurement options; with any recommendations from these boards being brought back to Council, with the objective of maintaining the £116M budget allocation.

9.5 There are a number of factors that have potential to cause project cost escalation beyond the risks identified in the risk register and provided for within the £22M risk budget. These factors are sometimes referred to as the known unknowns. These factors include:

- the project is dependent upon multiple formal process that are not in the control of NSC / WECA,
- the project entails a major investment on an asset base that is not owned and operated by NSC / WECA and this results in additional commercial complexity that cannot be fully known at this stage,
- there has been a number of high profile cost escalations within the rail industry in recent years, from very large national rail projects, to regional and local projects.

9.6. These wider project risks are under continual review by the project team, sponsors and the S151 officers. Concluding the DCO examination by April 2020 and achieving a successful decision by the Secretary of State for Transport by December 2021 will reduce the wider risk exposure and will provide greater certainty that the project will be delivered. Furthermore, the completion of the detailed design (GRIP5) and the Full Business Case by summer 2022 (which will identify the remaining delivery risks) will enable a decision to be made jointly by NSC Full Council and WECA Committee on the award of contracts to deliver the project.

## **10. Legal Powers and Implications**

10.1. The Development Consent Order has a range of legal implications which are set out in the report to Council at its meeting of 25<sup>th</sup> June 2019.

## **11. Climate Change and Environmental Implications**

11.1. MetroWest Phase 1 requires an Environmental Statement to support the Development Consent Order (DCO) application. Climate change and environmental implications have been assessed in the Environmental Statement. The Environmental Statement is a key DCO application document and is available from:

<https://metrowestphase1.org/dco-application/>

## **12. Risk Management**

12.1. The overall project risk register is currently being reviewed in the context of Covid-19, which is not a risk, it is an issue (a risk that has occurred). Therefore, all major risks relating to programme delay, cost increase, market failure etc will all be reviewed in the context of Covid-19 with the appropriate likelihood and impact assessments made, including any revisions to the risk mitigation.

12.2. Risks at the project and programme level are managed through the WoE Strategic Rail Board, which reports to the WoE Joint Committee. While at this stage there remains potential for the scheme costs to increase as the scheme design and technical work progresses, this risk applies to all major transport schemes up to completion of the design, consents / approvals and the tendering of the construction works. As the project is a third party railway project the principal risks of

implementing the proposals have to be met by the Council and WECA as the co-promoters. The Council and WECA each have a 50% share of the risks and there is a total risk allowance of £22M, within the project capital budget. Following the Full Business Case a further agreement between the Council and WECA will be needed for the construction phase of the project.

12.3. It will be necessary for the Council to enter into an Implementation Agreement, an Asset Protection Agreement, a Property Agreement and Bridge Agreements with Network Rail by early 2021. This does mean the Councils risk exposure will increase in relation to the estimated spend of £6.134M for 2020-21, resulting in a total projected spend of £26.792M by March 2021. However, achieving the DCO consent and completing GRIP 5 detailed design will take the project to a point where it is ready to be implemented subject to approval of the Full Business Case.

12.4. The project top five risks are set out the table 4 below. Risk 1 is a strategic governance risk, which applies to any major transport scheme promoted using capital and grant funding. Risk 2 is partly a governance risk and partly a technical risk and risk 3 and 4 are technical risks managed by the Project Team and reported through the governance chain of command. Risk 5 is a financial risk relating to revenue budgets which will be dealt with through further negotiation with the DfT.

Table 4 top five risks

Risk	RAG rating	Mitigation	Mitigated RAG rating	Financial impact of risk if mitigations are not delivered
1. Revenue Reversion Risk should scheme not progress and repayment of grant	R	Risk is mitigated by the purchase of assets, submission DCO and the delivery of Scheme 1A. Work is taking place with finance officers to reduce the risk of full revenue reversion,	A	Up to £20m) (under review)
2. Time delays arising due to Covid 19, including delays to the DCO process, causing a repeat of processes, cost increases and an increased risk of not spending the Local Growth Funding within the required timescale, resulting in the loss of the balance of this funding	R	Engagement with key decision makers on the required authorisations and finalisation of all technical work on application documents including dealing with formal comments from statutory bodies	A	Up to £4.8m (under review)



3. Time delays to the programme, as result of; a longer DCO examination or to complete stage gate and other major technical or commercial milestones	R	Engagement with Network Rail to ensure sufficient resourcing and more detailed development of the scheme programme to identify opportunities to de-risk the programme	A	Up to £7.5m (under review)
4. Development of the scheme design results in additional infrastructure outside DCO red line boundary or additional technical scope that was not identified in previous GRIP stages	R	Continued technical engagement with Network Rail and review of specific pressure points on the red line boundary.	A	Up to £8m (under review)
6. on site construction risk as identified in QRA	R	Review throughout design process and market engagement, allowing reprofile and release of risk were appropriate	A	£16.6m
7. Train service revenue support costs for the first three years, are not affordable to the councils, causing delay to programme.	R	Continue development of the operational proposal and engagement / negotiation with the incumbent train operator and the DfT.	A	Up to £3.4m (under review)

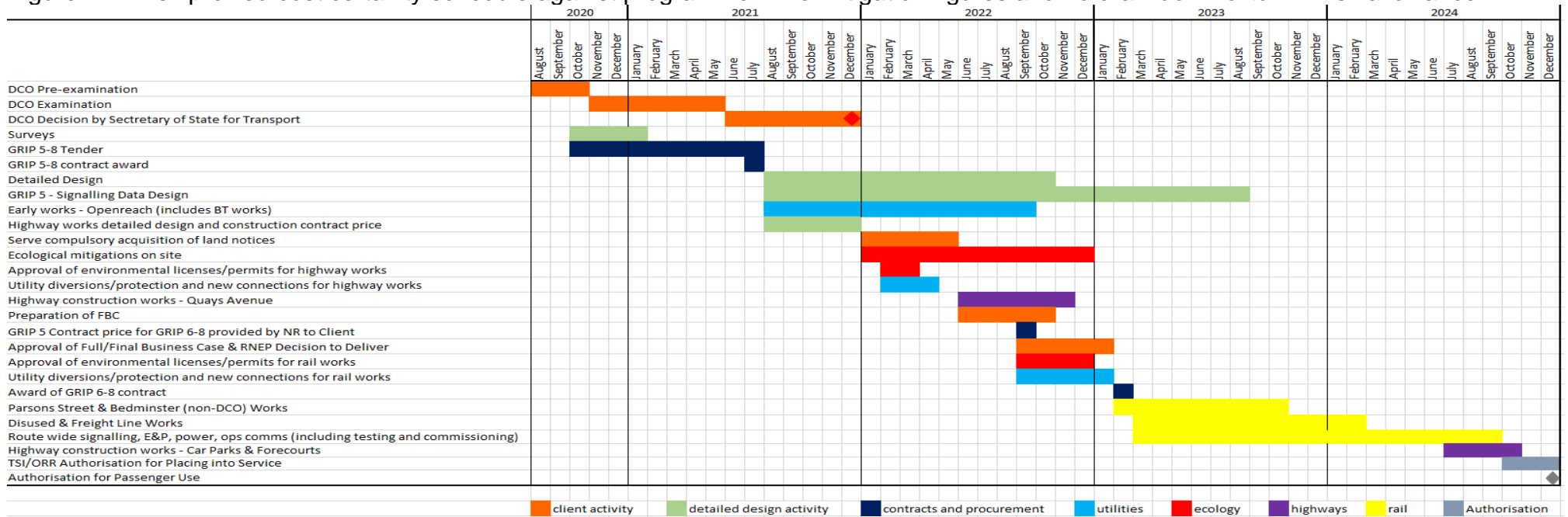
12.5. The recent changes to the project governance with WECA now co-promoting the project brings additional expertise and resource into the Client Team. This additional resource means the Client Team has greater capability to manage the technical interfaces with Network Rail and this will increase opportunities to challenge costs working with Project consultants and contractors.

12.6. Figure 1.1. shows the above Strategic project risks profiled against the current project programme and does not factor in any release of the project £22m risk pot. The profile and risk rating are pre-mitigation or milestone occurring. For example the revenue reversion risk is significantly reduced once the Phase 1A part of the project is delivered. The technical design risk is high through to approvals being given and appointment of the main contractor packages.

12.7. It should be noted that the risks in figure 1.1. are not cumulative, as for example if the project stopped, whilst revenue reversion would be applicable the project delivery risks would clearly cease. For the purpose of illustration though, the figure does show the totality of strategic risks and their value, which are monitored by the project team and senior officers.

- 12.8. Excluding the revenue reversion risk, there is the potential to draw down upon the £22m risk pot. However once on site issues can still arise, therefore should the full impact of one of these single risks occur, full draw down against the project risk pot would not be recommended as this would place significant cost pressure on the £116m project budget.
- 12.9. Senior officers are working closely with senior colleagues at Network Rail and the Department of Transport to mitigate these risks which will inform timely decisions to be brought forward to the respective NSC, WoE and WECA decision making bodies for approval, following full scrutiny engagement.

Figure 1.1. Risk profiled cost certainty schedule against programme - Pre-Mitigation figures and no draw down of £22m risk allowance



	2020	2021	2022	2023	2024
Time delays resulting from Covid-19 - £4.8m					
Key approval time delays/slippage - £7.5m					
Design changes – DCO & further technical understanding - £8m					
On site construction risk - £16.6m					
Train service revenue support costs - £3.4m					
<b>Total Scheme risk (Red and Amber)</b>	<b>£36.2</b>	<b>£36.2</b>	<b>£36.2</b>	<b>£28.7</b>	<b>£28.7</b>

\*Revenue Reversion risk is not shown in table as if this risk became applicable the subsequent risks above would not be applicable

### **13. Equality Implications**

- 13.1. An Equality Impact Assessment has been undertaken and is attached as appendix 3.

### **14. Corporate Implications**

- 14.1. The improvement of the transport network is a key priority in the Corporate Plan. The project will play a significant role in Supporting Economic Prosperity (Aim 5) and Protecting and Improving the Environment (Aim 3). There are no specific cross-service implications.

### **15. Options Considered**

- 15.1. The WoE Joint Transport Board (superseded by the WoE Joint Committee) considered three main options at its meeting on 17<sup>th</sup> March 2017 and determined to take a staged approach to the delivery of the scheme. Chapter 3 Scheme Development and Alternatives Considered of the Environmental Statement which is a DCO application documents sets out the options considered in detail. The document is available from:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/portishead-branch-line-metrowest-phase-1/?ipcsection=docs>

- 15.2. The wider context for the project option selection is as follows; the local rail network across the West of England is under-developed in comparison with similar sized city regions, the local highway network is congested at key locations on arterial corridors and the overall demand for transport continues to increase. The focus of the project option selection was to address the project objectives by making effective use of dis-used / under-used strategic rail corridors in parallel with enhancements to existing local rail lines.

#### **Author**

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#### **Appendices**

Appendix 1 – Rule 6 letter issued by the Examining Authority on 7th September 2020

Appendix 2 - Utilities Interface Risk Assessment

Appendix 3 - Equality Impact Assessment

#### **Background Papers**

Report to the Executive 29<sup>th</sup> April 2020 MetroWest Phase 1 Update – Budget, Professional Services Contracts and Procurement Approvals

Report to Council 25<sup>th</sup> June 2019 MetroWest Phase 1 Submission of Development Consent Order Application and Associated Approvals

Report to Council 19<sup>th</sup> February 2019 MetroWest Phase 1 Progress on the Submission of the Development Consent Order Application and Associated Approvals