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**From:** david\_mackay@[REDACTED]  
**Sent:** 20 August 2010 10:06  
**To:** rush\_aj@[REDACTED]  
**Cc:** Richard Jeffrey; Andrew.Fitchie@dlapiper.com  
**Subject:** Re:

Tony,

Many thanks and I take on board your comments.

Good, balanced response methinks; feeling somewhat "tetchy" this morning so I'll consider further over the weekend and meantime therefore resist a stinging para or two about his/their total disregard for our previous correspondence with Walker et al and the repetitive ad nauseam comments about funding and so on, none of which gives me any confidence that they can be trusted to do what is urgently required!

Cheers and good fortune to you and Richard later today.

David

-----Original Message-----

**From:** rush\_aj@[REDACTED]  
**Date:** 20/08/2010 9:29  
**To:** <david\_mackay@[REDACTED]>  
**Cc:** "Richard Jeffrey" <Richard.Jeffrey@tie.ltd.uk>, "Fitchie, Andrew" <Andrew.Fitchie@dlapiper.com>  
**Subj:**

David

Below my draft response to Enenkel's letter. I am sure you will change it as I haven't as yet perfected copying your style. I am stressing the personal "you" because he says he is in continuous contact.

I wouldn't copy the reply to anybody – he didn't.

Tony

Dear Mr Enenkel,

Many thanks for your letter dated 16 August 2010. I am pleased to hear confirmation of you being actively engaged in this project and of course I understand that you have many other responsibilities and cannot make it your sole interest. But, I do hope that you will be available, as you were in 2008, to get matters settled.

I hear from our "Project Carlisle" Team that they are working to a timetable agreed with Mr. Kitzman which may see you and me at opposite sides of a table in early September. We do recognise Mr. Kitzman's efforts and I am sure you also recognise that it has been built on the mutual goodwill created by our team and that it should be the basis of better relationships in the future.

Your letter raises some points which are better answered by our Project Director. I would however ask that you keep an open mind on "cause and effect" in respect of Changes. Naturally I am much closer to the day-to-day facts than you are and also receive un-biased reports from our advisors. Responsibility is by no means one-sided as you imply.

The question of Preliminaries is a good example. I have given Mr. Darcy a copy of Anthony Rush's independent opinion (he thought us both wrong to an extent) and I am satisfied, if anything, that it is reasonable to conclude that you have been overpaid for Preliminaries. You may of course dispute this through the usual channels.

You refer to the On-street Works. I can if you wish provide you with a schedule which shows that there is only 1 km of On-street works where you could not presently work to a programme which takes account of traffic management and embargoes. Moreover, I am advised that you would have continuity to complete those Works.

I think that this may go to the very kernel of the problems which dog the project. Firstly you have not recognised the true meaning of "Designated Works Areas" or "mitigation" in your programming. Secondly, you have not as yet produced an integrated assured design for the On-street Civil Engineering Works, which is approved by the Roads Authority.

I am of course very grateful to hear it reported that you intend to correct the defective work on Princes Street, but my pleasure is tinged with the fact that many weeks have elapsed since you said you would produce a remediation plan. I am sure that you will be aware that we have had to ask for you to rectify the programming issue and the remedial works plan to Princes Street by using Clause 90.1.2. It was to my regret, but these two issues are amongst a number whose resolution is critical to this project.

Finally, it seems self evident to me that the City of Edinburgh Council, as Guarantor, is backing the project.

Yours sincerely,

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email [rush.aj@\[REDACTED\]](mailto:rush.aj@[REDACTED])

</BLOCKQUOTE