

---

**From:** Alan Coyle  
**Sent:** 12 March 2009 14:38  
**To:** Colin MacKenzie; Nick Smith; Max Thomson; Andy Conway; Ailie Wilson  
**Subject:** FW: TORs for Peer Review team

FYI

Regards

Alan Coyle | Principal Finance Manager (Acting)/Financial Services Lead (Edinburgh Tram Project) | Financial Services | City Development Team | Level 2/5 Waverley Court | 4 East Market St EH8 8BG | [alan.coyle@edinburgh.gov.uk](mailto:alan.coyle@edinburgh.gov.uk) |  
Phone [REDACTED] Mobile [REDACTED]

---

**From:** Stewart McGarrity [<mailto:Stewart.McGarrity@tie.ltd.uk>]  
**Sent:** 12 March 2009 14:36  
**To:** [John.Ramsay@transportscotland.gsi.gov.uk](mailto:John.Ramsay@transportscotland.gsi.gov.uk); Alan Coyle  
**Subject:** TORs for Peer Review team

John / Alan,

Keeping everyone informed – the Terms of Reference agreed with the Peer Review team for their current review is reproduced below.

Stewart

Stewart McGarrity  
Finance Director  
**tie** Limited  
Mobile: [REDACTED]

### **Edinburgh Tram - tie Peer Review**

**Terms of Reference for Review beginning on 5<sup>th</sup> March 2009**

**Mike Heath, Willie Gillan and Malcolm Hutchinson (plus Marshall Poulton as observer)**

#### **Background**

During the period since early December 2008, **tie** has found itself in an escalating and increasingly entrenched series of disagreements with the BSC consortium on a range of contractual issues. This has arisen in parallel with a very late mobilisation and start on construction by BSC and has lately manifested in an impasse such that BSC (led by Bilfinger Berger) have clearly stated they will not work on sections of the project until **tie** accept their overarching contractual conditions and thereby allow them to recover very substantial additional direct costs, prolongation and delay and disruption they have forecast they will incur to complete the project. During the week ending 20<sup>th</sup> February the dispute culminated in a refusal BSC to start permanent works on Princes Street until matter under dispute in respect of Princes Street in particular, including the valuation of all changes, had been resolved.

After taking very robust legal advice and with clear and unambiguous support from the **tie** Board, the Tram Project Board and City of Edinburgh Council, **tie** has now commenced proceedings under the contractual Dispute Resolution Procedure with a view to, inter-alia, getting the permanent infrastructure works on Princes Street started as soon as possible.

The **tie** Chairman has asked the **tie** Peer Review team to provide an independent view on the circumstances leading to the current disputes and to test the decision to invoke the DRP procedure.

**Specific matters to report on**

1. The correspondence and emails leading to the above circumstances
2. Decision to commence the DRP process on Princes St in the context of any alternatives course which may be available to **tie**
3. The strength of the case on the matters referred specifically to DRP in respect of Princes St

---

The information transmitted is intended only for the person to whom it is addressed and may contain confidential and/or privileged material. If you are not the intended recipient of this e-mail please notify the sender immediately at the email address above, and then delete it.

E-mails sent to and by our staff are monitored for operational and lawful business purposes including assessing compliance with our company rules and system performance. TIE reserves the right to monitor emails sent to or from addresses under its control.

No liability is accepted for any harm that may be caused to your systems or data by this e-mail. It is the recipient's responsibility to scan this e-mail and any attachments for computer viruses.

Senders and recipients of e-mail should be aware that under Scottish Freedom of Information legislation and the Data Protection legislation these contents may have to be disclosed to third parties in response to a request.

tie Limited registered in Scotland No. SC230949. Registered office - City Chambers, High Street, Edinburgh, EH1 1YT.

---