

Mr Tom O'Neill
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Dear Tom

PB & tie relationship in respect of the SDS contract

The Tram Project Board have instructed me to personally and directly engage with PB's top management, prior to finalisation of the £2.5m commercial settlement. As a pre-cursor to the visit this week, I asked my management team for their considerations as a record of their concerns and an agenda for our discussion. These comments are intended to be constructive and helpful in understanding some of the issues we have faced and are facing ahead.

1. Single commercial settlement of £2.5m

This relates to SDS prolongation claim and the disputed changes. This has now been settled by the two commercial teams. We are pleased that this is behind us. It is also important that we both recognise the key contract principles involved in reaching the settlement. Given the history of the SDS contract, and in particular the need for my visit last year, the Board have only agreed to this amount on the proviso that I would personally seek assurances that PB remain absolutely committed to ensuring the success of the Edinburgh Tram SDS Contract and that our concerns detailed here would be taken on board.

2. PB performance in respect of the main ETN design deliverables

We now have a much improved expectation of success. This follows some months of programme blockage caused by unresolved design decisions and critical issues. We accept that some of these result from poor management focus on the part of tie. However, we also note that in several cases, PB has failed to escalate the issue or it has been caused by key third parties outside our direct control. Since the early Spring, both sides have worked well to systematically tackle all of these critical issues, such that there are now no reasons for a lack of programme progress. This concerted effort is continuing on a weekly basis with the sole objective of preventing critical issues causing further programme slippage. The dashboard tracker shows reasonable correlation v19 (current) and the so called 'excuse free' baseline programme v17. During each management Period (4 weeks) the Board have very close scrutiny of this metric. SDS advise us that they are committed to achieving this programme.

3. PB performance in respect of the MUDFA works

I wish the same could be said for SDS contract performance on the MUDFA design works (MUDFA is the multi-utility diversion framework agreement, contracted between tie and Alfred McAipine). Here SDS are contracted to provide a full package of utility diversion designs culminating with final 'Issue for Construction' (IFC) drawings. In tie's view, SDS's approach and performance has been very poor from the outset. Firstly, we do not believe that PB recognised the importance of the MUDFA design programme in relation to the master ETN works programme, (PB's attention was evidently focussed on the main design programme); secondly, SDS failed to engage with determination the Utility Companies (SUCs) upon whose cooperation your delivery capability depended; and thirdly, a large part of these design works has been sub-contracted by PB to Halcrow who have evidently not been managed well and shown themselves to be insufficiently and poorly resourced. It is true to say that following recent concerted pressure, PB's focus and Halcrow's performance has improved somewhat, although there

remains outstanding the issue of late IFC drawings. This impacts our on-street works programme directly. Whilst we recognise that for the IFC's to be delivered, PB rely upon the effective and timely turnaround of the drawings by the SUC's, the forecast deliveries versus actuals have been frankly abysmal. By way of illustration, at last month's MUDFA sub-committee meeting that I chair, we were assured of five dates during the month of September on which there would be delivery of the five sectional IFC packages. At the following sub-committee last Wednesday, we were advised that *none* of these dates had been met. In support of PB, the management team at tie recognise the critical role played by the SUCs in this respect and have been incentivised to provide assistance to PB to bring about change. I have written to Greg Ayres and Alfred McAlpine urging both to do likewise until we break the back of this problem. It has also been elevated to receive the full focus of the weekly tie/SDS critical issues meeting. The bottom line is that tie are immediately exposed to a prolongation of the MUDFA Contract and an unplanned overlap between SUCs diversions and the ETN works programme.

4. Ensuring positive behaviours

The history of the contract has created some entrenched and unhelpful behaviours in PB. This seems to arise from an unspoken aim to recover PB's losses from tie – irrespective of the impact it might have on co-operation, performance and corporate reputation. tie needs to ensure success in terms of achievement of its delivery objectives, PB need success in terms of reputation recovery. Unless we work together positively, we will fail in both of these.

Prior to the engagement of both Matthew Crosse as tie Project Director and Steve Reynolds as SDS Project Director, we sensed PB were 'claims focussed' seeking to try to recover their P&L position at any opportunity. Our initiative in February 'tie together' attempted to bring about real cultural change seeking to foster cooperative working and a positive spirit - without constantly referring to the contract and sending letters. Today, we believe that some of these so called 'bad grace' attitudes still prevail within PB. Clearly, there is much history in the relationship and some (pre-2007) tension which has led PB to retrench and use as a defence (or excuse as we would see it) any 'failure' of tie, real or perceived, to justify failure against their real contractual obligations and published and contracted programme or indeed to claim for additional costs. A sustainable relationship is one in which requirements and need for instructions would be drawn to the relevant parties attention at the earliest opportunity without waiting for them to supply the relevant notice. We are not there yet.

5. Worldwide reputation in transportation design leadership

Members of the Tram Project Board have witnessed various indifferent or poor monthly SDS programme management reports - for whatever reason. In supporting the £2.5m settlement referred to above, they recall the very strong marketing hype surrounding PB's original appointment. However, the Board now feel somewhat let down. They relate how they naively assumed that PB's leading international reputation would always prevail and that its high calibre global management team would guarantee focussed programme achievement, strategic design leadership and a proactive approach.

Consequently, tie have had to provide strong management assistance to ensure PB can meet the requirements of their contract. The legacy of the recent critical issues phase for example is that the role of PB appears to have changed from a self-leading strategic partner to one working from instruction to instruction. Solution to the MUDFA problems above is another case in point.

Finally we have a concern about depletion of resources. As the project enters a critical phase, we note that critical project resources are being lost to other schemes – for example Manchester. We have asked, as indeed we are entitled to expect contractually, that team members are identified and committed until the end of the SDS programme.

I look forward to discussing each of the points above with a view to ensuring a consensus on the way forward.

Sincerely,

Willie Gallagher