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**From:** Richard Jeffrey  
**Sent:** 21 December 2010 09:26  
**To:** Mandy Haeburn-Little; Susan Clark; Steven Bell; Gregor Roberts; Alan Coyle; Dennis Murray; Alastair Richards  
**Subject:** FW: A slightly more detailed update on yesterday's meeting, STRICTLY PRIVATE AND CONFIDENTIAL

For info.

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**From:** Richard Jeffrey  
**Sent:** 21 December 2010 09:16  
**To:** Donald McGougan; 'Alastair Maclean'; Dave Anderson  
**Subject:** A slightly more detailed update on yesterday's meeting, STRICTLY PRIVATE AND CONFIDENTIAL

Yesterday Nigel Robson and I met with BSC, represented by Richard Walker, Michael Flynn, and Richard Garner of CAF, who I have not met before.

Nigel Robson is the ex construction partner at Eversheds and an experienced international mediator who I am using as an advisor for all things mediation related.

We started the meeting discussing my e-mail of 9/12/10. RW suggested that we mediate on project Carlisle, and if that fails look to the agreed termination route.

I asked what he thought had changed since we last failed to reach an agreement on Carlisle. He said he felt that following the various contacts with CEC (Which he listed) CEC were now more sympathetic to BSC's arguments. I asked him how in practice he thought that changed things, and he declined to be more specific.

MF then joined the meeting (his train was late).

MF proposed that we reduce the scope of Carlisle to Airport to Haymarket (which was their last offer under Carlisle anyway). We did not discuss under such circumstance what we do about Princes Street.

I asked MF what he thought had changed since we last did not agree their proposal, and he said that he thought they had now submitted further support for their extension of time claim, which justified more of the money they are seeking.

RG said very little and left early. Re-novation of CAF was not discussed.

RG did raise the issue of trust, and the danger that any agreement could be undermined by personalities.

RW said he preferred 'facilitated discussions over several weeks'. MF did not, then called for a break.

On return we agreed that they would re-submit a price and programme for Airport to Haymarket (but be warned I expect their price to increase from their previous offer!) by mid Jan. We would look again at their offer, and inform them of what terms and conditions in their offer (other than price or programme) are not acceptable to us. We would then take two weeks to consider this (in effect crystallizing the difference between us so the mediator has a clear problem to try to resolve). We would then take 1 week prepare for mediation, then 1 week for the mediator to consider position papers etc. So mediation actually booked for 2 days mid Feb.

RW was seeking to blame CEC for design approval delays.

RW was keen that Alastair Maclean was in the mediation from CEC as he thought he was more sympathetic to BSC's position, he thought Donald was already 'biased' against BSC. We said that tie/CEC would decide who was at the mediation.

My thoughts from the meeting

BSC think, for different reasons, that we are going to come up with more money.

I think their new price for airport to Haymarket will be higher than their previous one.

Walker does not have a plan, Flynn does.

They are worried that 'mutually agreed termination' may look like them being thrown off.

They have a problem between them if we don't pay 100% of their claims, they then have to decide how to share any shortfall.

I think we will not be able to accept their revised offer, so the mediation will actually end up being about 'mutual termination' even though that is not where we are now.

The gap between us on mutual termination will still be large, because they are still trying to recover 100% of all delays and costs to date.

Regards

Richard

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