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**From:** Steven Bell  
**Sent:** 15 March 2009 23:18  
**To:** David Mackay; Stewart McGarrity  
**Cc:** Jordan, Stuart; Fitchie, Andrew  
**Subject:** FW: Draft peer review team, DRP Report  
**Attachments:** EDINBURGH TRAM DRP Review 140309.doc

David / Stewart

Particularly disappointing review comments but not necessarily surprising given the opinions put forward during the interviews. Unfortunately I think it will colour CEC if not corrected now. With regard to the process issues I would comment as follows.:

1. Notification of the DRP. We think this was done by letter from the tie Chairman on February 19<sup>th</sup>. Is it clear that he is able to give such notification? I think so, our legal advisors think so and in addition I sent a covering letter to BSC on the same day.
2. Can there be obfuscation by BSC of the role of the Project Director as Project Director and tie's representative in terms of giving instructions? No idea what he means.
3. Did the signatory of Change Order No. 21 have tie Representative's delegated authority and is it documented? Yes Dennis did (as do Frank and Susan) and I wrote to that effect many months ago. I will have Julie dig out the letter and forward it to the Peer Review team.
4. Did tie issue the instruction to carry out the works on Princes Street before electing to refer the matter to DRP whereas Clause 80.15 requires it to happen afterwards? Covered in the same letter. DLA did not seem concerned when queried on this.
5. Did tie issue a second change order to instruct the works as required by our interpretation of Clause 80.15? I don't agree with that interpretation. I expect DLA will comment.
6. Why did the Change Order not give any dates on it? Driven by two weeks from actual implementation and therefore linked to when BSC finally implemented. It was from 21 February.

With regard to the determination matters, I think the review team have focussed on a "programme" theme, as opposed to a contractual obligation to undertake the works. I believe this should be discussed with them in some detail. I cannot list here how many items I think either we have not communicated well or they have simply not grasped.

To suggest that there has been no effort to resolve the issue before going to DRP, given that BSC only indicated their argument 48 hours before the planned commencement of works, with no other indication that the Princes Street works were "disputed" seems particularly naive and unfortunate.

I will discuss with Stewart and Stuart / Andrew how we get clearer communication here.

Regards

Steven

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**From:** Mike Heath [<mailto:mike@mgheath.co.uk>]

**Sent:** 15 March 2009 20:55

**To:** Stewart McGarrity

**Cc:** Steven Bell; David Mackay; [marshall.poulton@edinburgh.gov.uk](mailto:marshall.poulton@edinburgh.gov.uk); [williamt@f\[REDACTED\]](mailto:williamt@f[REDACTED]) 'malcolm hutchinson'; [mike@mgheath.co.uk](mailto:mike@mgheath.co.uk)

**Subject:** Draft peer review team, DRP Report

Stewart,

Please find our draft report as promised. It is still a draft to enable you to make any comments on the factual matrix we have set out or for us to make any enhancements or amendments you think would be necessary in the event you wish to circulate this beyond the limited circulation set out above.

If you wished to discuss this with a member of the team in person, Willie would be able to meet with you this week and I could join him on Thursday afternoon or Friday morning if required.

Please let me know if there are any matters you do not think we have covered sufficiently relative to the terms of reference given the documentation we have seen and the responses to the queries we have raised.

Kind regards

Mike

For Peer review Team.