
From: Colin MacKenzie
Sent: 30 April 2008 15:28
To: Andy Conway; Alan Coyle
Cc: Nick Smith; Duncan Fraser
Subject: EDINBURGH TRAM: FINANCIAL CLOSE

Importance: High

Andy and Alan,

Further to the meeting this morning Nick and I have considered the DLA letters dated 12th March, 18th March and 28th April. You sought our views on this correspondence.

As you are aware we have from the outset expressed reservations about the ability of DLA to effectively review their own work. In this regard, it is difficult to see how any letter from DLA could give full comfort to the Council. Our preferred route was always that the Council seek independent legal advice. In particular, all of the DLA letters are heavily caveated, and refer to instructions from **tie**, or positions achieved by **tie**. The reality of the contract structure is that the Council is to give a guarantee in respect of all financial obligations being undertaken by **tie**. Instructions have been given throughout by **tie** to DLA, with little input from Council officers and accordingly no certainty that Council instructions flowed through to DLA. The most recent letter dated 28th April does little to remove doubts and uncertainties. Specifically, that letter appears to give no comfort on the risk profile and acceptability in relation to the market norm. The lengthy letter also narrates matters which appear to us to be risky for the Council and are not fully covered by the QRA.

No doubt the Directors of Finance and City Development, respectively, will be seeking confirmation from the Council Solicitor as to the acceptability to her of the DLA letter.

Kind regards,

Colin MacKenzie and Nick Smith
for Council Solicitor