

Date: 1 August 2024
File ref.: CPB-1005-LET-0678

Attention: Craig Ramm, Engineer Representative
Worley Services Pty Ltd
Level 1, 93-95 William Street
Perth WA 6000

Dear Craig,

CONTRACT NO: WR/C/CC/1005
WESTERN RANGE PROJECT – MAIN INFRASTRUCTURE BULK EARTHWORKS
Clause 9.2 Notice of Variation

REFERENCE: VAR-0317 - Response to Engineers letter 1005-0184

VARIATION: Restriction on Utilisation of Triple Trailers as per Contractors Construction Methodology Plan.

The Contractor refers to the above Contract. Capitalised words within this correspondence have the same meaning as in the Contract.

Following receipt of Engineer's letter 1005-0184, and further to discussions during workshop meetings held on 9 July 2024 and 19 July 2024, regarding the Engineers rejection of variation claim VAR-0317, the Contractor provides the following response.

Non-compliance With Notice Provision

The Engineer advised that the Contractor submitted LET-0587 on 29 April 2024, over 8 months after commencing the alleged impacted activities. LET-0587 was issued significantly outside the 5 Working Days specified in Clause 9.2(a), and the Contractor did not follow up LET-0587 with a notice under Clause 9.2(b) and has therefore failed to comply with the timeline provisions under Clause 9.2(b).

The Contractor discussed this item during the workshop meeting, with the Engineer and the Company in attendance, where the Contractor confirmed that a breakdown in communication between Commercial and Site Engineering led to a delay in submission, and that it is a breakdown in communication from site to Commercial for both parties. The use of triples on site was categorically refused by the Engineer's site team, and the Contractor's site team complied with this verbal direction. The action from the workshop meeting was for the Contractor to gain confirmation from the Engineers site personnel, that this verbal direction was given to the Contractor in February 2023, and that triple trailers delivering containers were turned away from site.

The Contractor's site personnel confirmed this verbal direction with the Engineer's site personnel, as requested from the Company on 19 July 2024 in the workshop meeting. However, to maintain site working relationships, the Contractor did not ask for this in writing as requested in the workshop. The Contractor has since discussed this with the Engineer and kindly requested that the Engineer make a similar phone call to confirm the verbal direction from its site personnel. The Engineer agreed and was to follow up with its site personnel.

Basis of Claim

The Engineer rejected the Contractors claim on the basis that it has not received from the Contractor, a completed risk assessment or a formal request for approval to utilise triple road trains on the Project, as per the HSE Construction Handbook, document numbered RTIO-HSE-0309259.

The Contractor does not agree with this interpretation of the Contract and documentation, as the use of triple road trains for the project is clearly documented within the executed Contract document.

- Schedule A.7 – Table A.7.3 - Dayworks rates – Plant and Equipment.
- Schedule A.9 – Fuel Consumption and estimated equipment hours.
- Schedule F.1 – Statement of Plant and Equipment.
- Schedule M – Contractor’s Methodology.
- The Contractor’s programme resource in P6 – “*W01040-RT_DBL TO TPL SEMI.RT_DOUBLE AND TRIPLE ROAD TRUCKS*”

The Contractor advised in the workshop meeting that the risk assessment was not completed, as the position from the Engineer’s personnel was clear that triple road trains were not allowed on site, without exceptions. The Contractor has complied with this verbal direction as it has throughout the project and this has been confirmed by the Engineer as the correct approach on numerous Variations and confirmed in discussion.

Identified Programme Activities

The Contractor has undertaken a review of the approved P6 Contract programme activities and provides the table in Annexure A for all BSA19 activities impacted by this change.

The table in Annexure is an extract from the approved Contract programme, and it identifies a total of 99 activities that the use of a triple road train was planned for, that have been cross referenced against the Schedule of Rates items.

The Contractor trusts that this provides the requisite information to allow the Engineer and the Company to re-assess the rejection of this variation as outlined in the Engineer’s letter 1005-0184.

The Contractor reserves all its rights under the Contract and at law.

Yours sincerely,

CPB Contractors Pty Ltd



Richard Walford
Contractor’s Representative

Attachment:

Annexure A - VAR-0317 SOR & Programme Activities