

Date: 3 July 2023
File ref.: CPB-1005-LET-0185



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

Attention: Mr Craig Ramm

Dear Sir,

CONTRACT NO. WR/C/CC/1005
WESTERN RANGE PROJECT – MAIN INFRASTRUCTURE BULK EARTHWORKS
Clause 56.2(c) Extension of Time Claim
RE: EOT-002: Tunnels Supply (VAR-003/NOD-003)

Due to the ongoing design issues and the extended period of procurement the Contractor confirms that it has been prevented from submitting an extension of time claim for entitlement to additional time under the Contract, however in line with the Engineer's request within Letter Ref. 1005-0075 and in accordance with the General Conditions of the Contract, with reference to Clause 56.2(f), the Contractor hereby issues the Engineer its extension of time Claim resulting from the delayed procurement of the tunnels arches for the Project.

The Contractor emphasises there are ongoing unresolved items in relation to the design and design approval of the tunnels that may further impact this assessment and days contained with this submission.

The Contractor refers to the following documents and correspondence:

1. Letter 1005-0001, from the Contractor issued 23 December 2022 via Aconex correspondence CPB Con-LETTER-000001.
2. Meeting Invitation issued by the Engineer to the Contractor via email on 19 January 2023.
3. Commercial Meeting Minutes WR-1005-MOM-COM-01, of meeting held 27 January 2023. Minutes issued via Aconex correspondence WR-PRCO-000447.
4. Letter CPB-1005-LET-0015, from the Contractor issued 7 February 2023 via Aconex correspondence CPB Con-LETTER-000014.
5. Weekly Progress Meeting Minutes WPM1005-05, of meeting held 15 February 2023. Minutes issued via Aconex correspondence WR-GCOR-005880.
6. Letter CPB-1005-LET-0026, from the Contractor issued 24 February 2023 via Aconex correspondence CPB Con-LETTER-000016.
7. Aconex correspondence CPB Con-GCOR-000105, from the Contractor issued 9 March 2023.
8. Letter 1005-0018, from the Engineer issued 10 March 2023, via Aconex correspondence 1005-0018.
9. Letter CPB-1005-LET-0038, from the Contractor issued 10 March 2023 via Aconex correspondence CPB Con-PRCO-000027.
10. Letter 1005-0023, from the Engineer issued 20 March 2023 via Aconex correspondence WR-PRCO-000572.
11. Aconex Correspondence CPB Con-GCOR-000210, issued by the Contractor 12 April 2023.

12. Letter 1005-0037, from the Engineer issued 17 April 2023 via Aconex correspondence WR-LETTER-000125.
13. Letter 1005-0075, from the Engineer issued 09 June 2023 via Aconex correspondence WR-LETTER-0075.
14. Worley / CPB Construction Alignment Session Meeting Minutes, held 1 May 2023, issued through via Aconex correspondence WR-GCOR-007818.
15. Programme BAS-04 approval, issued from the Engineer 20 June 2023 via Aconex correspondence WR-TRANSMIT-007163.

Chronology – Background Details and Facts

The Contractor acknowledges the extended length taken to resolve procurement of the tunnels for the Project and notes that it has maintained constant communication between itself and the Engineer to work in coordination to resolve and mitigate impacts to the Project. The below provides a summary of the background and facts associated with the extension of time Claim, as required to provide in accordance with the Contract.

Due to the prolonged process of Procurement the Contractor has detailed below the chronology of events prior to the Direction to procure the tunnels with an alternative Subcontractor.

Contractor's Letter 001, 23 December 2022

On 23 December Contractor issued Letter Ref. CPB-LETTER-1005-0001 which detailed the Contractor's inability to finalise the procurement process with the Nominated Subcontractor (Humes) due to the finalisation of the design. It also highlighted that the Engineer was to coordinate a meeting to finalise the issues in early January 2023.

In early January it became apparent in conversation with the Nominated Subcontractor that there was conflicting design information between what had been issued to Contractor and the Nominated Subcontractor. The Contractor made further enquiries to establish the discrepancies.

Emails from Nominated Subcontractor, 16 January 2023

The emails received from the Nominated Subcontractor confirmed that drawings issued Direct to the Nominated Subcontractor by the Engineer on 5 January 2023 were different to the then revision current drawings issued to the Contractor.

Site Meeting between Engineer and Contractor, held 10:00am 18 January 2023

The tunnels were discussed at length during the meeting and in particular the discrepancy between the design information. At the meeting the Engineer suggested that a meeting be held between the Engineer, Contractor and Nominated Subcontractor to resolve the issues. An invitation was issued via email on 19 January 2023 from the Engineer with the following notes and agenda:

“Meeting between Worley, CPB and Humes to ensure all parties are on the same page regarding the following expectations:

- *Design Drawings with revised info (i.e. listing all Design Parameters)*
 - *Detailed Shop Drawings & their lead times*
- Any other contractual issues that need to be discussed.”*

It is demonstrated by this correspondence that the design was still not finalised at that point in time.

Email from Nominated Subcontractor, @ 2:47pm 18 January 2023

Email received from Nominated Subcontractor advising that the existing mould for tunnel 1 & 3 that they had anticipated utilising for the Project is now unavailable and advised that they were sourcing costs to make a new mould and the potential prioritisation of tunnel 2.

Meeting between Engineer, Contractor and Nominated Subcontractor (as arranged by the Engineer), 20 January 2023

Meeting was attended by representatives of all parties.

During the meeting the Contractor advised that it was still not possible to advance the procurement with the Nominated Subcontractor due to currently having no finalisation of the following:

- Design
- Programme of Works / Delivery
- Price

The Nominated Subcontractor agreed to issue the most up to date information and the Engineer confirmed that they would issue the agreed design drawings.

Email from Nominated Subcontractor, 20 January 2023

As agreed at the meeting (20/1/23) the Nominated Subcontractor issue a revised pricing schedule and project schedule.

Commercial Meeting between Engineer and Contractor, 27 January 2023

During this meeting the tunnels were again discussed in detail an action was captured in the meeting minutes (Item 2.3) as follows:

“MW advised that CPB will issue a notice to the Engineer regarding tunnels issues with Humes regarding design responsibility / Parameters”

Email from the Engineer, 31 January 2023

As agreed at the meeting (20/1/23) the Engineer issued the latest design drawings (9Nr).

Contractor's Letter CPB-1005-LET-0015), 6 February 2023

The Contractor provided notice (refer letter CPB-1005-LET-0015, CPB Con-LETTER-000014) to the Engineer that it considered the delayed procurement as a result of revised drawings received 31 January 2023 and subsequent revised pricing and programme schedule issued from the Nominated Subcontractor in receipt of the revised drawings constituted a Variation and Delay Event under the Contract. The notice included the then known impacts to the Programme because of the impact to the Nominated Subcontractor's procurement schedule.

Initial proposal provided by alternative Subcontractor (RECO), 10 February 2023

Following the ongoing anticipated delays with subcontractor engagement and programme of the Nominated Subcontractor, the Contractor commenced investigating an alternative subcontractor to mitigate the potential impacts to the Programme.

Nominated Subcontractor's General Manager Email correspondence, 15 February 2023

Advice received by the Contractor of capacity problems within the Nominated Subcontractor's facilities. This was further advice that due to the pending engagement from the Project, that they now

had reduced productivity and availability and to supply the tunnels, would require to manufacture in the Northern Territory (resulting in additional delivery costs) and would only be able to manufacture one tunnel at a time (resulting in Programme impacts).

The Contractor was advised by the Engineer not to proceed with the engagement of the Nominated Subcontractor, due to the potential impacts to the Project costs and Programme impacts that were advised by the Nominated Subcontractor. The Contractor was requested to continue investigating alternative solutions including other potential suppliers including RECO to mitigate the delays imposed by the Engineers Nominated Subcontractor (refer Weekly Meeting Minutes held 15 February, Item 6.2).

Meeting between the Engineer and Contractor, 20 February 2023

The Contractor and Engineer met and the Contractor outlined the potential impact to Programme. This was further captured as part of letter issued 24 February 2023 (refer letter CPB-1005-LET-0026, CPB Con-LETTER-000016) and advised a required commitment by the Engineer by 3 March to mitigate the current and potential Programme impacts.

Contractor written query to Engineer regarding Tunnels 1 and 3, 9 March 2023

With reference to discussions, the Contractor asked the Engineer if the Contractor is to approach Humes regarding the supply of Tunnels 1 and 3 (refer CPB Con-GCOR-000105).

Engineer requests further investigation into supply of Tunnels 1 and 3, 10 March 2023

The Engineer issued a letter (reference 1005-0018, Aconex 1005-0018), noting that the Engineer accepts the delay mitigation measures proposed in LET-0026 and the substitution of precast concrete tunnel arches from RECO, and requested that the Contractor further investigate the benefits if Humes were to supply the Project Tunnels 01 and 03, and provide feedback by 14 March 2023.

In response to 1005-0018 on 10 March 2023 the Contractor (reference CPB-1005-LET-0038, CPB Con-PRCO-000027) requested the Engineer provide Direction on Tunnel 02 and advise on a number of items requiring resolution to engage the alternative Subcontractor to proceed and best mitigate any impacts. The Contractor also outlined the then current procurement options available.

Engineer Directs the Contractor for Tunnel 2 Procurement, 20 March 2023

The Engineer provided response (refer letter 1005-0023, WR-PRCO-000572) Directing the Contractor to engage RECO for the procurement of the Tunnel 02 precast concrete tunnel arches. The Engineer further noted it had initiated the process for a design agreement with RECO and requested comparisons of costs and programme between supplier Humes and RECO for Tunnels 01 and 03.

Between 29 March 2023 and 12 April 2023, the Contractor and Engineer had ongoing conversations and correspondence in relation to the comparison of impacts between the two suppliers. This is captured via Aconex correspondence CPB Con-GCOR-000210 (Note this was issued as confidential correspondence as per discussions with the Engineer).

Engineer Directs the Contractor for Tunnel 1 and 3 Procurement, 17 April 2023

The Engineer provided Direction (refer letter 1005-0037, WR-LETTER-000125), noting that it accepts the Contractor's proposal provided in CPB-1005-LET-0026 and that it has finalised a design agreement with RECO. The Engineer further Directed the Contractor to proceed with the engagement of RECO for the procurement of Tunnel 01 and 03.

The Contractor has accordingly proceeded with the procurement of all Tunnels with supplier RECO.

As a result of the above, numerous activities were delayed that impacted the critical path and Completion of several Milestones. These impacted activities include, the delay of contract award of the precast tunnel elements, delay of completion of design and shop drawings of the precast tunnel elements, resequencing of fabrication (as unable to fabricate concurrently as originally planned) and changed durations for fabrication of each of the Tunnels. These impacts have subsequently delayed the delivery to site and installation of the precast tunnel elements.

Impacts to Programme

Accordingly, there has been a Delay Event with reference to Clause 56.1(f), which has resulted in the delay to the Completion of the Works and Milestones, as set out in the table below, which shows the Impacted As Planned delay dates, mitigated Completion dates and claimed days of delay for each Milestone.

Milestone	(A)	(B-A)	(B)	(B-C)	(C)	(C-A)	
	Current Completion Dates (BAS-04)	Calendar Days Delayed to IAP	Revised Completion Dates (BAS-04 IAP)	Mitigated Delay	Revised Mitigated Completion Dates (BAS-04 Mitigation)	Calendar Days Delayed	Revised Completion Dates
1	17-May-23	nil	17-May-23	N/A	17-May-23	nil	-
2	28-Jun-23	nil	28-Jun-23	N/A	28-Jun-23	nil	-
3	27-Jul-23	nil	27-Jul-23	N/A	27-Jul-23	nil	-
4	7-Aug-23	nil	7-Aug-23	N/A	7-Aug-23	nil	-
5	15-Aug-23	nil	15-Aug-23	N/A	15-Aug-23	nil	-
6	21-Aug-23	104	3-Dec-23	29	4-Nov-23	75	4-Nov-23
7	13-Sep-23	nil	13-Sep-23	N/A	13-Sep-23	nil	-
8	18-Sep-23	nil	18-Sep-23	N/A	18-Sep-23	nil	-
9	30-Sep-23	nil	30-Sep-23	N/A	30-Sep-23	nil	-
10	31-Oct-23	137	16-Mar-24	30	15-Feb-24	107	15-Feb-24
11	7-Nov-23	183	8-May-24	29	9-Apr-24	154	9-Apr-24
12	12-Nov-23	106	26-Feb-24	33	24-Jan-24	73	24-Jan-24
13	28-Nov-23	nil	28-Nov-23	N/A	28-Nov-23	nil	-
14	7-Dec-23	150	5-May-24	29	6-Apr-24	121	6-Apr-24
15	15-Dec-23	145	8-May-24	29	9-Apr-24	116	9-Apr-24
16	6-Jan-24	138	23-May-24	28	25-Apr-24	110	25-Apr-24
17	11-Feb-24	140	30-Jun-24	30	31-May-24	110	31-May-24
18	4-Apr-24	135	17-Aug-24	28	20-Jul-24	107	20-Jul-24
19	7-Apr-24	120	5-Aug-24	28	8-Jul-24	92	8-Jul-24
All of the Works	10-Jun-24	109	27-Sep-24	28	30-Aug-24	81	30-Aug-24

Please refer to the attached Impacted As Planned delay analysis based for each impacted Milestone on the Programme (refer **Attachments 1 and 2**), which demonstrates the direct effect of the Delay Event on the abovementioned Completion Dates. The Impacted As Planned delay analysis has been applied to Baseline Programme Revision V04 (BAS-04), as approved by the Engineer on the 20 June 2023, via Aconex correspondence WR-TRANSMIT-007163.

The Contractor further provides its mitigated programme (refer **Attachments 3 and 4**) that aligns with the proposals provided to the Engineer previously and reflects the revised Completion dates being claimed.

The Contractor has best mitigated any delays throughout the series of events that occurred during the delay as outlined within this letter. The Contractor acted promptly and in constant communication with the Engineer to resolve identified design conflicts, sought alternative supplier timeframes, and provided mitigation programmes to the Engineer to allow for assessment, decision and Direction (refer CPB-1005-LET-0026).

The costs associated with this delay will be submitted separately as per Clause 56.3(c) of the Contract.

The Contractor emphasises there are ongoing unresolved items in relation to the design and design approval of the tunnels that may further impact this assessment and days contained with this submission. For clarity as of the date of this letter the Contractor has not been issued with IFC drawings for the tunnels but is currently proceeding with the tunnel manufacture to mitigate further delays.

The Contractor awaits the Engineer's determination and notification of extension of time to the Milestone and Works Completion Dates in accordance with Clause 56.2(f).

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

Yours sincerely

CPB Contractors Pty Ltd



Richard Walford

Contractor's Representative

Attachment 1 – Impacted As Planned Programme (PDF Summary)

Attachment 2 – Native file Impacted As Planned Programme

Attachment 3 – Mitigated Programme (PDF Summary)

Attachment 4 – Native file Mitigated Programme