

"3 Obligations in relation to the Programme (ii) Updating the Programme for progress and change"

1.1 What is the "Programme" against which to assess the impact of a tie Change?

1.1.1 Reference is made to Slide No. 14.

1.1.2 The INCT 536 Estimate seeks to demonstrate the impact of the subjects of INTC 536 on the Infraco construction programme "Revision 1", without any update or revision.

1.1.3 The Infraco construction programme, on its own, is not the Programme. It is but one of six component parts of the Programme.

1.1.4 The Infraco routinely updates both the Infraco construction programme "Revision 1" and the SDS design delivery programme (another one of the six elements of the Programme), yet it has not used these updates programmes or the factual information they contain, in the analysis of delay contained within the INTC 536 Estimate.

1.2 Mis-alignment of the elements of the Programme

1.2.1 It is pertinent to note that in routinely updating these two elements of the Programme the Infraco has not properly and accurately aligned the interlinked relationships and dependencies between them. Consequently, changes to the delivery of the design have not been properly and accurately reflected in the construction programme.

1.2.2 An example of the mis-management of the Programme is shown on Slide No. 15.

1.2.3 The top box contains an extract from the updated SDS design delivery programme, as presented by the Infraco in July 2010. The bottom left box contains an extract from the updated Infraco construction programme "Revision 1", as presented by the Infraco in July 2010. By comparison of the milestone dates for the "Issue Construction Drawings" it is readily apparent that the two elements of the Programme are not in alignment. The full extent of the delay in delivering the "Issue Construction Drawings" shown in the updated SDS design delivery programme is not being reflected in the updated Infraco construction programme.

1.2.4 Examination of the corresponding extract from the INTC 536 delay analysis programme (contained in the bottom right red box) identifies that the "Issue Construction Drawings" milestone has been removed from this delay analysis programme. This results in the delay analysis that uses that programme showing this structure to have commenced over 2 years earlier than shown/projected in the updated Infraco construction programme. This is further evidence of the theoretical nature of the delay analysis contained within the INTC 536 Estimate. It is also evidence that that analysis is

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ignoring a most significant delay to works in a critical or near critical part of the Programme. That analysis does not accord with the actual facts of the case. To-date (February 2011) construction of this structure has yet to commence.

1.3 Failure to update the Programme for change order and manner of delivering the Infraco Works

- 1.3.1 Slide No. 16 shows an example of the Programme not being updated to show changes to the proposed order and manner for delivering the Infraco Works.
- 1.3.2 The bar chart on that slide summarises and compares two of the updated Infraco construction programmes, as presented by the Infraco in July 2010.
- 1.3.3 The programme section within the green box summarises the road and track works, between Chainages 0 and 600 on Leith Walk, as reported in the updated Infraco Programme "Revision 1". The grey bars show the roadworks and the pink bars the trackworks. The durations, sequencing and interdependencies are unchanged from the un-progressed (not updated) version of the Infraco construction programme "Revision 1".
- 1.3.4 The programme section within the red box summarises the equivalent section of road and trackworks from the Infraco's "Updated programme". This would appear to be a progressed version of the previously rejected "Revision 3" Infraco construction programme. Once again, the grey bars show the roadworks and the pink ones the trackworks.
- 1.3.5 By comparison it is readily apparent that the order and manner of delivering these parts of the Infraco Works, as shown in the updated "Revision 3" programme, is very different from that shown in the "Revision 1" programme. The "Revision 3" programme shows many more activities, most with apparently much longer durations and ordered in a different sequence. It is understood that the "Revision 3" programme reflects the Infraco's proposed order and sequencing for these work and is in accordance with its formally approved traffic management proposals. The order and manner shown in the "Revision 1" Infraco construction programme has been superseded and this has been formalised through the official review and approval processes required for such works.
- 1.3.6 Given that the INTC 536 Estimate delay analysis has been conducted using the "Revision 1" Infraco construction programme, it is clear that the failure to update that programme, and the Programme as a whole, will produce results that do not align with the Infraco's actual planned order and manner for delivering the Infraco Works. Consequently, the output from the INTC 536 Estimate analysis does not accord with the requirements of the Infraco Contract and cannot be relied upon in properly assessing any requirement for extension of time arising from the matters covered by INTC 536.