EXHIBIT 6



Cessation of Works at Section 2A (Haymarket/Haymarket Yards) to Section 7 (Airport)

By letter dated 29 September 2010 (reference 25.1.201/KDR/6860) the Infraco confirmed *inter alia* their action to cease work in respect of INTC's related to the whoe of the Infraco Works. This paper responds only Section 2A (Haymarket/Haymarket Yards) to Section 7 (Airport).

The reason provided by the Infraco for the Cessation of Works was that the Infraco was not obliged to proceed with the works in the absence of a **tie** Change Order being issued. The Infraco claiming that up until this point the works had been undertaken based on a 'good will' basis. In the event they have also ceased work on other parts of the work not covered by the INTC's they refer to and are making no progress in correcting defects in the work they have already constructed. Moreover, whilst the Infraco have continued to complete the Design they have expressed no urgency to do so in order that works can recommence and any lost time be made up.

It is **tie's** position that the Infraco reasoning for the Cessation of Works is flawed. Further that **tie** considers that the Cessation of Works is a breach of Contract terms. The Infraco is contractually obliged to progress with all of the Works. In addition that *inter alia*, the Infraco has breached the following terms of the Contract:-

- Clause 118 to act reasonably;
- Clause 6.1 duty to apply expertise to carry out and complete the Works;
- Clause 6.3.2 to use reasonable endeavours to avoid unnecessary complaints against tie;
- Clause 6.3.6 to take all reasonable steps to manage, minimise and mitigate costs;
- Clause 7.1 accept full responsibility and agree to carry out and complete the Infraco Works fully and faithfully in accordance with the Agreement;

Page 1 of 16

- Clause 7.2 to act with reasonable skill and care
- Clause 7.5.2 requiring the Infraco to minimise disruption to the City of Edinburgh
- Clause 7.3.13 to act in accordance with Good Industry Practice;
- Clause 7.3.16 to not wilfully detract from the image and reputation of tie and CEC; and
- Clause 7.13.19 to act in a manner which is not injurious to persons or property.

A considerable amount of correspondence and documentation exists in respect on this matter. However, it is on an individual INTC basis and does not address the overall impact on progress to the Infraco Works and Infraco's obligations which includes progressing with due expedition in the manner expected of an experience design and build contractor.

The Infraco have ceased works based on INTC's that have not been instructed under a tie Change Order. The Infraco has stated it is permitted to do so under Clause 80 of the Contract. In certain cases the lack of a tie Change Order results in the inability to complete sections of the works. Even if the Infraco's interpretation of the Contract is correct it does not excuse the Infraco of the responsibility to progress the Infraco Works as far as is possible.

It is also the case that the Infraco cannot claim to have ceased works due to a lack of a **tie** Change Order when the reason why works cannot proceed is due to a default or the failure of the Infraco to gain approval for a matter it is responsible. In addition where **tie** has issued a Change Order the Infraco must proceeds with works previously stated as being on the Cessation of Works list.

It is further noted, notwithstanding tie's differing interpretation of items that are correctly Notified Departure, that where an INTC is issued the Infraco is to provide the Estimate within the timescale laid down in the Contract. Infraco have seldom done so and even where extensions have been requested the Infraco has failed to provide the Estimates timeously. It is tie's belief that this is as a consequence of a lack of resources on the part of the Infraco.

Page **2** of **16**

It is tie's case that the Infraco has *de facto* ceased works that could be undertaken and not affected by an INTC where no tie Change Order has been issued, where a tie Change Order has been agreed, where the reason for an alleged Change is as a consequence of the Infraco's obligations under the Contract and as a result of the failure of the Infraco to complete the design and/or obtain permissions/approvals. The foregoing is a list of items that the Infraco relies upon in its Cessation of Works.

CESSATION LIST/INTC'S

In respect of the Section 2A (Haymarket/Haymarket Yards) to Section 7 (Airport) it is noted that the Infraco has stated that it is not required to proceed with the Works in the absence of a tie Change Order. The Infraco Cessation of Works letter identified that INTC's that have been raised in respect of OLE Bases, Cable Routes & Ducting and changes to drainage both track and main drainage have not been the subject of a tie Change Order and as such the Infraco is entitled not to progress with the works. On closer inspection it is evident that the works that the Infraco has ceased are not as a consequence of tie being responsible for the alleged change. Indeed in respect of certain items the Infraco is able to proceed with the works. The reasoning behind this statement is developed below.

Cable Routes and Ducts and OLE Bases

It is acknowledged that the Infraco has raised INTC's in respect of Cable Routes, Ducts and OLE Bases. In particular the change has resulted in the following changes to the design of the civil engineering works:-

- Larger draw pits.
- More ducts.
- Encasing Ducts in Concrete
- Larger OLE bases.

However, the reason behind the Change is as a consequence of the Infraco meeting the requirements of Siemens as regards its Systems Design. That is to say that the consequence of Siemens integrating their requirements with the civil's design has resulted in a change to the works.

Larger Draw Pits

The increased size of the draw pits is not the result of an inability to install the cables but is as a consequence of the preferred working practices by Siemens. The original design for the draw pits would have been adequate to allow cable installation. It is **tie's** position that the originally envisaged smaller pit size also met the Employers Requirements as regards maintenance of the system and further would have not affected the operation of the tram network. As a result the increase in the size of the draw pits is not as a result of any change in the Employers Requirements or a **tie** Change but to make installation easier for the Infraco.

Ducts

In respect of the Infraco allegation that there is a requirement for additional ducts it is **tie's** position that there has been an increase in duct requirement as a result of the development of the Siemens System Design. This has been exacerbated by the Infraco applying the Employer's Requirement a 50% redundancy/spare capacity in the cable ducts without considering or inquiring whether the Employer would require such a proportion in the changed circumstances. As a result the increase in the number of ducts is not as a result of any change in the Employers Requirements or a tie Change but to incorporate the Infraco's System Design.

Encasing Ducts in Concrete

The Infraco has decided to encase the ducts in concrete without considering or inquiring whether the Employer would require such a measure. As a result this measure is not as a

Page 4 of 16

result of any change in the Employers Requirements or a **tie** Change but to incorporate the Infraco's System Design.

Larger OLE bases

In respect of the increase in the size of the OLE basis it is **tie's** position that this has occurred as a result of design development to accommodate the loading requirements as a result of the requirements of the Siemens System Design. As a result the increase in the size of the OLE bases is not as a result of any change in the Employers Requirements or a **tie** Change but to accommodate the Infraco's System Design.

Track drainage

The tie position on any change to track drainage is that any change is as a consequence of the design of the track for which the Infraco is responsible. It is accepted that the complete installation of the track drainage is not currently possible. This is due to the fact that the Infraco track work design has not yet been capable of being approved. The track drainage design is integral with the track design and as such approval of the track works is required. Even if it was possible to design that track drainage separately until the installation of the actual track work is progressing it would not be appropriate to install the track drainage works. The inability to install the track drainage is as a consequence of the Infraco having failed to obtain an approved design. As a consequence it is not the case that the Infraco has ceased works but correctly that the Infraco is holding up progress of the installation of the track drainage.

Main or Carrier Drainage

It is understood that agreement has been reached with the Infraco as regards Change to the main or carrier drainage for sections 7, 5C, 5B and 5A and tie Change Orders have been issued or agreed as NIL (in the case of 5A). In relation to 2A, tie have responded to Infraco's Estimate in October 2010, but still await a response. As a consequence there is no

impediment on the Infraco from progressing all of these works, other than self imposed suspension.

Contaminated Soils

In progressing the works contaminated material has been encountered. It is **tie's** position that correctly the discovery of contaminated material is a Compensation Event and as such works should progress in accordance with Clause 22.5 and 65. Notwithstanding it is **tie's** position that where contamination has been encountered the Infraco has not always provided an Estimate within the time requirements specified in the Contract. Had Estimates been provided timeously the works, in respect of contamination, could have commenced earlier. It is noted that rates have been agreed (bar one) as regards the removal of contamination and as such there is no impediment to progress with the works. There is no justifiable reason why the Infraco removal of material which is classifiable as Special Waste should prevent the Infraco from progressing with the Works, in any event such materials are found in limited areas.

Ground Improvement Slabs

Whilst the Infraco have not yet Issued for Construction Drawings for the track tie understand that they are considering with SDS the incorporation of a reinforced concrete ground improvement slab where the track is Rheda City Grass Track (3,418 kilometres of route length). Such a requirement would not be envisaged other than for the purposes of integrating the Rheda City proposal (an Infraco Proposal) with the civil engineering design. This is a matter of integration and the Infraco's responsibility.

Summary

In reliance on the above noted items that are the subject of INTC's it is the Infraco position that works cannot progress until a tie Change Order is issued. In respect of the INTC's for Cables, Ducts and OLE Bases these have arisen as a consequence of facilitating the Siemens System Design. As the System Design, which affects the civil's design, is an Infraco Proposal

Page 6 of 16

any development is not the responsibility of tie. If Change is necessary then it is the responsibility of the Infraco. In respect of where the Change is as a result of preferred working practices this constitutes an Infraco Change under clause 81. tie is not obliged to accept an Infraco Change.

It is noted that in respect of the items noted above they fall within the design and completion of the Infraco Proposals. Only items identified and agreed at a Development (misalignment workshop) create an SDS entitlement to a design related change to bring the original design into line with the Infraco Proposals. As stated above the resultant "change" is an Infraco Change, as a result of the Infraco Proposals and as a consequence there is no Notified Departure.

It would be absurd that the impact of the Infraco's own proposals to comply with the Employer's Requirements or to suit its own working practices are that it is not required to progress with the works and that any change in design to achieve its own proposals is at the client's cost.

APPROVAL ISSUES

In addition to the Cessation of Works based on INTC's it is also the case that there the Infraco has not been able to progress with works as a consequence of a failure to obtain Approvals, as it is required to do so under the Contract. The failure to achieve approvals fall under a number headings as noted below.

Outstanding Planning Variations

Documentation has been prepared identifying the extent of the Outstanding Planning Variations that affect the track (Appendix 1 refers). In section 2A and in particular 5A a significant proportion of the area requires the Infraco to obtain approvals from CEC in respect of Planning Variations. Approval being required from Haymarket down to Haymarket yards, Russell Road to the end of the Murrayfield Tram Stop and again at

Page 7 of 16

Balgreen area. The same is true for the remainder of the route to the end of Section 7. Obtaining the approvals is the responsibility of the Infraco. Works cannot proceed until the approvals are obtained. As a consequence any failure to progress the works in this area is an Infraco default.

Outstanding Technical & Planning Approvals/ Outstanding NWR Form C approvals

Documentation has been prepared identifying the extent of the Outstanding Technical & Planning Approvals/ Outstanding NWR Form C approvals that affect the track (Appendix 2 refers). In section 2A approximately 90% of the route requires either approval from CEC or from Network Rail (Form C). In section 5A approximately 75% of the route requires either approval from CEC or from Network Rail. Obtaining the approvals is the responsibility of the Infraco. Works should not proceed until the approvals are obtained. As a consequence any failure to progress the works in this area is an Infraco default.

Outstanding IFC's

Documentation has been prepared identifying the extent of the Outstanding IFC's that affect the track (Appendix 3 refers). In section 5A approximately 50% of the route does not have an IFC. The provision of an IFC is the responsibility of the Infraco. Works cannot proceed until IFC has been issued. As a consequence any failure to progress the works in this area is an Infraco default.

CEC Critical Issues/Comments

Documentation has been prepared identifying the extent of the CEC Critical Issues that affect the track (Appendix 4 refers). The term "critical comment" is used in circumstances where CEC has identified an issue with the design, such that a revised drawing must be produced by the Infraco to CEC in order to demonstrate that the comment or issue has been addressed.

There are in order of 42 Critical Comments that have been raised by CEC in the Section 2A (Haymarket/Haymarket Yards) to Section 7 (Airport). These issues can only be resolved by the Infraco and until such times as they are works cannot proceed.

Demolition of Property

Documentation has been prepared identifying the extent of the Demolition Works to be undertaken that affect the track (Appendix 5 refers). While there are only two areas requiring the demolition of properties it is **tie's** case that, with particular regard to the property at Roseburn, their removal is critical to progressing the works. The demolition of the properties is the responsibility of the Infraco and until such times as they are works cannot proceed.

Summary

The aforementioned items identified that there are large areas of the works that cannot proceed until approvals have been obtained or designs completed. It is not disputed that as a consequence works cannot proceed to completion of the works. However, the Infraco is responsibility for obtaining the approvals. As a consequence if the works are not able to proceed it is as a result of an Infraco default and not a failure of **tie** to issue tie Change Orders.

DEPOT RANSOM STRIP

The so called depot ransom strip is the West apron area which when constructed will link the maintenance tracks inside the Depot workshop to the stabling track area, it is shown marked by the arrow in the photograph below (taken in November 2010).

Infraco are relying upon lack of agreement of a relatively small number of INTCs or alleged INTC's in this area in order not to proceed with the concreting works of the depot West apron. As a consequence, this prevents the Infraco track contractor BAM from laying the rails in this area. This is delaying the practical delivery of the First Tram and subsequent Trams to the depot.

The importance of the Depot Aprons to the delivery of the Trams to the Depot was made clear to representatives of the Infraco at a series of monthly Operational Readiness workshops held throughout 2010 up to October 2010. Representatives from the Infraco Members (Siemens and CAF) have continued to work to support this objective, however as a result of the decision by the Infraco in October to cease performing works that they consider to be the subject of change, there has been little or no movement in this area since that time.

There are a four INTC's (alleged INTC's) related to works in the Depot which directly relate to the work on the West apron area are contained in Table 1 below.

Sect	INTC	Description	Status	Comment	Action
6A	203c	IFC Drawings - External Hard landscaping	BSC currently reviewing the tie assessment issued by email 04/02/11.	issue a further INTC for	BSC
6A	203AH	Aco Channel to hard standing	Meeting held 16/2/11 to discuss the tie assessment. BSC are reviewing the additional information put forward by tie.	•	BSC

TABLE 1

In the overall scheme of the Project, the cost differences between the Parties are not large and should in any normal environment be capable of being worked through to conclusion in parallel with the work progressing. Indeed this was in fact the case in the Depot prior to October 2010. Notwithstanding tie's position that the Infraco's interpretation of the Contract is incorrect, where works are cannot be progressed without an agreed Estimate

Page 10 of 16

there is a responsibility on the Infraco to provide the Estimate timeously. The issues identified in Table 1 cannot be considered to be a complex change to the works. In respect of the items relevant to the Ransom Strip the Infraco took a considerable period of time to submit an Estimate. It is also the case that **tie** is waiting for responses from the Infraco to enable agreement to be reached. This is resulting in delay to agreement of an Estimate. It is not the case that the delay is due to a failure on the part of **tie**. It is **tie's** position that the time taken by the Infraco to issue and deal with Estimates is due to a lack of resources.

DEFECTS

The issue of defects is not referred to by the Infraco in their letter of 29 September 2010. Nor is it as a result of any the failure to obtain approvals. However, is does identify operations that require to be undertaken before works can be completed. The Infraco are responsible for the remedy of defects and as such a failure to rectify will result in the inability to progress with the works.

The following are examples of defects where rectification is required before further progress can be made on those parts of the Infraco Works:

<u>Haymarket</u>

- OLE pole positioning if incorrect then, subject to position, the works cannot be brought up to finished level.
- Potential issue with chamber being in incorrect position if incorrect then, subject to position, the works cannot be brought up to finished level.

<u>Depot</u>

- OLE pole positioning if incorrect then, subject to position, the works cannot be brought up to finished level.
- Finished level of concrete floor if incorrect level then works cannot be completed until rectification.

- Tolerance differential on column track until the issue of tolerance is resolved the works cannot be completed until rectification.
- Ducts installed below drainage level until rectification drainage cannot be installed or the track brought up to finished level.
- OHL foundation installation- if incorrect then, subject to position, the works cannot be brought up to finished level.

Carricknowe Bridge

 DKE clash – if there is a DKE clash then a design resolution has to be achieved before the remainder of the works can commence.

Edinburgh Park Bridge

 DKE issue (upstands) - if there is a DKE issue then a design resolution has to be achieved before the remainder of the works can commence.

Gogar Bridge

 (Farrans) various reworks have been carried out on bridge/ various cube failures and reworks required – until the issue of cube failures is resolved works cannot proceed.

Carricknowe Bridge

 Bridge deck level out of tolerance - until the issue of tolerance level is resolved works cannot proceed.

It can be seen from the above there are a number of instances of failures/defects that would make progressing with the works inappropriate. As an example if ducts have been installed at the wrong level there is no point in bringing up the works to track level as re-excavation would be required. Similarly if there are concerns about the quality of the concrete used in a structure or where the works have been constructed out of tolerance then progressing with the works would potentially result in further rectification works. As such works have to stop until the issues are resolved. In respect of the failures/defects noted above they are all issues for which the Infraco has a responsibility and as such are preventing the progress of the works.

HAYMARKET YARDS

The Haymarket Yard Section of the project is an example of where operations to construct the works have ceased as a consequence of the Infraco letter dated 29 September 2010 (reference 25.1.201/KDR/6860). The area in question covers the section currently fenced off and running from Haymarket Terrace down to Haymarket Yards and the section along Haymarket Yards.

The consequence of the cessation of works in the Haymarket Yards area is the sterilisation of parking facilities and disrupted access to the important commercial premises which are within the area which is physically part of the City of Edinburgh and contribute significantly to its economy. Moreover, the state of the works, the property and equipment adjacent to the works and the safety arrangements are deteriorating. As a consequence in respect of the Haymarket Yards area there has been a breach of Clause 7.5.2 of the Contract under which there is a requirement for the Infraco to *'minimise disruption to the City of Edinburgh"*.

The Infraco are claiming, as in other areas, that works cannot progress until tie Change Orders are been issued for INTC's. In considering the issue of INTC's in isolation does not address the overall position at the location in question. In examining all issues concerning the Haymarket Yards it is clear that the absence of a **tie** Change Order for certain INTC's is not the only reason why works have ceased. It is also the case that for some of the INTC's the Infraco has wrongly applied the Contract terms.

In respect of the Haymarket Yards area the Infraco has been issued with a Permit to Commence works, albeit subject to conditions. However, the Infraco has failed to meet the conditions of the permit in that it has yet to provide an integrated track design and the required documentation in respect of sub-contractors. The Infraco relies on INTC's for unforeseen utilities and ground conditions as regards an inability to progress with the works. It is **tie's** position that the discovery of unforeseen Utilities is a Compensation Event under the Contract. It is acknowledged that the Infraco's stated position is that it has the right to choose whether the matter is dealt with as a Compensation Event or under Clause 80 as a Change. It is noted, however, that the Infraco Contract clearly states that the *'execution of any Utilities Works or MUDFA Works'* is a Compensation Events. Notwithstanding, the dispute as to the correct contract clause, as matters currently stand the unforeseen utilities in this area have now been diverted enabling the Infraco to proceed with the works. In particular the Gas utilities pipe (INTC 681) has been diverted as a temporary measure to ensure that the works can proceed.

In respect of the unforeseen ground conditions the Infraco has raised INTC 590, 597 and 673. In the Infraco Letter reference 25.1.201/KDR/6860 a list of items upon which the Infraco were ceasing works was included. In respect of the Haymarket Yards area only INTC 590 was identified on the cessation list. The soft ground referred to in INTC 597 has been removed and works in relation to this INTC are complete.

Infraco have previously been instructed to provide a "palette" of solutions (tie/CO20) in February 2009 to address a range of potential ground conditions on-street. Accordingly, there is no requirement for another Change Order to design a solution. That is to say that the Infraco is required to undertake the necessary works to ensure that a suitable sub-base has been provided.

The Infraco is required to progress with the works in accordance with the Contract. In respect of the issue of the unforeseen ground conditions there is a contractual requirement to progress with the works. However, the Infraco has failed to provide an approved design for the trackworks and as such it is only possible to construct the works up to sub-base level. If done this would allow the construction of a temporary running surface and as a consequence enable access to the parking areas and reduce the disruption that is currently being encountered in accessing the buildings in the Haymarket Yards area.

Page 14 of 16

It is not, however, possible to construct the works to sub-base level until the Infraco resume operations in respect of the INTC's for Cable Ducts, OLE Bases and Drainage. These issues have been dealt with above and it has been identified that they have arisen as a consequence of the development of the Siemens Systems Design. Such Design development is not a matter for which **tie** is responsible.

The Haymarket Yards area is also affected by matters that require approval such as Outstanding Planning Variations (Appendix 1), Outstanding Technical and Planning Approvals (Appendix 2) and CEC Critical Comments (Appendix 4). Resolution of these matters is the responsibility of the Infraco.

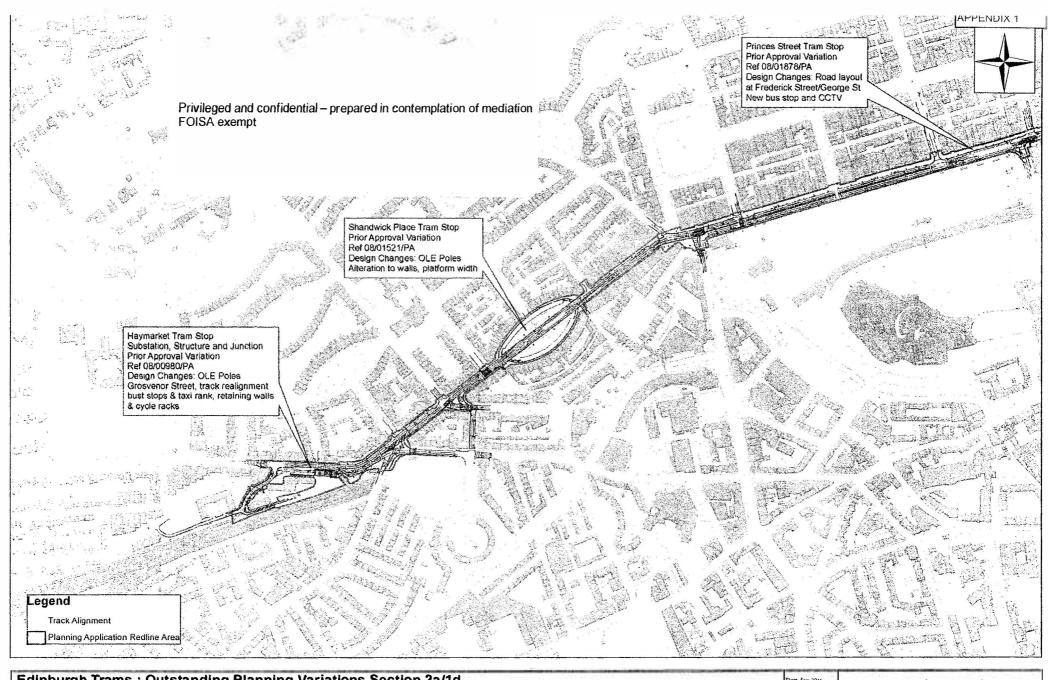
In summary, in respect of the Haymarket Yards area, it is **tie's** position that the Infraco is required to progress with the works to completion. However, this has not happened as the Infraco has failed to progress with INTC's that have been raised as a consequence of the development of the Siemens System Design. Even if the Infraco was to progress with the INTC's listed under the heading Cessation of Works it would not be able to construct the works to finished level. This is due to the absence of an approved track work design/fully integrated design and the absence of approvals for which the Infraco has the responsibility to obtained.

CONCLUSION

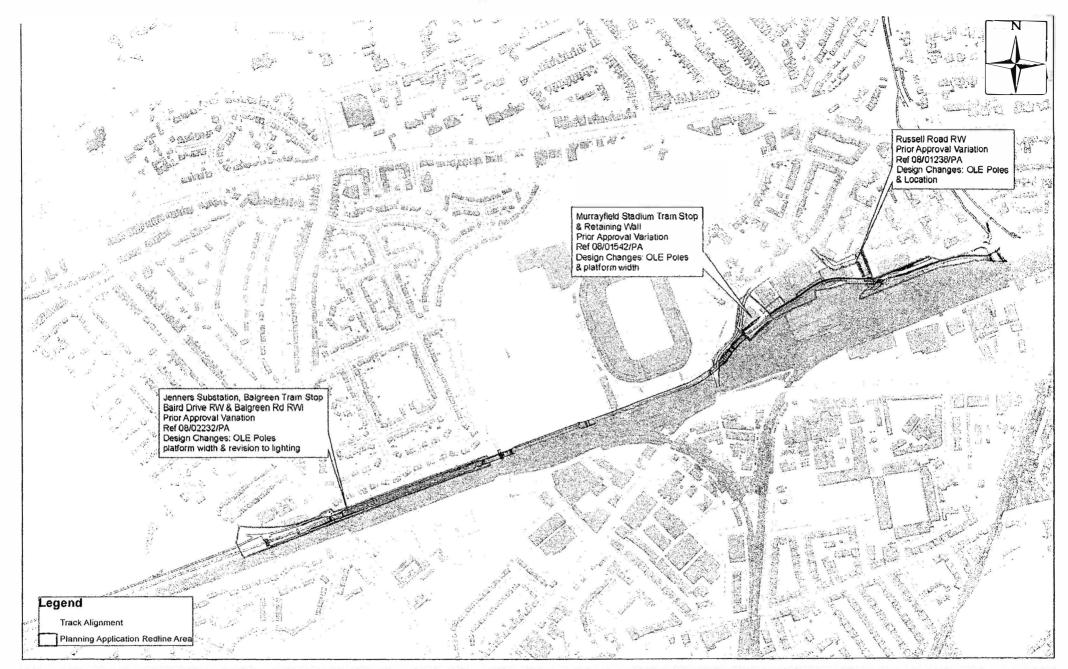
As the Infraco Contract makes no provision for either Party to act in "goodwill" and therefore does not confer any right for a party to withdraw what it claims to be a "goodwill" action; nor does the Infraco Contract permit **tie** to deny the Infraco's rights to additional payment for Changed Work on the basis that the Infraco had carried it out on a "goodwill" basis, with **tie**'s understanding and agreement, it is **tie**'s position that the Infraco is not entitled to unilaterally suspend work other than for reasons of non-payment pursuant to Clause 88.9 of the Infraco Contract and even then they are required to give 60 or 90 days notice. Any other suspension of work by the Infraco is an Infraco Default (i) **tie** having given the Infraco written notice to resume work on 4 October and 13 October 2010 (reference INF. CORR. 6358 and 6441.

In the hypothesis that the Infraco is correct in ceasing work the payment for which they assert is yet to be agreed (which **tie** denies) they have *de facto* ceased, or suspended work, on parts of the Infraco work which are not subject to such qualification.

It is manifest that the bald truth is that the Infraco is having difficulty integrating the design of the Rheda City track, both On-street and Off-street, with the Civil Engineering Works. This in part may be caused by the paucity of Ground Investigation carried out by the Infraco and the split responsibility between Siemens, as designer of the Systems, and SDS, as the designer of the civil engineering elements, and how this may be resolved when completing the Design Assurance Statements. Whatever, the completion of the Design is the dominant cause of delay to completing the Infraco Works.

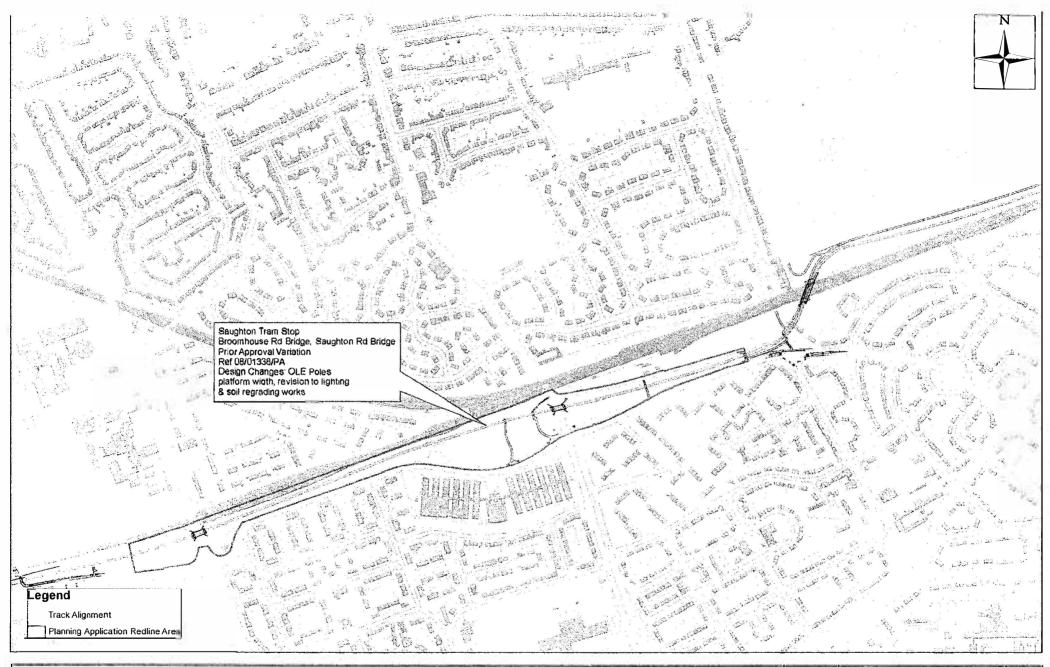


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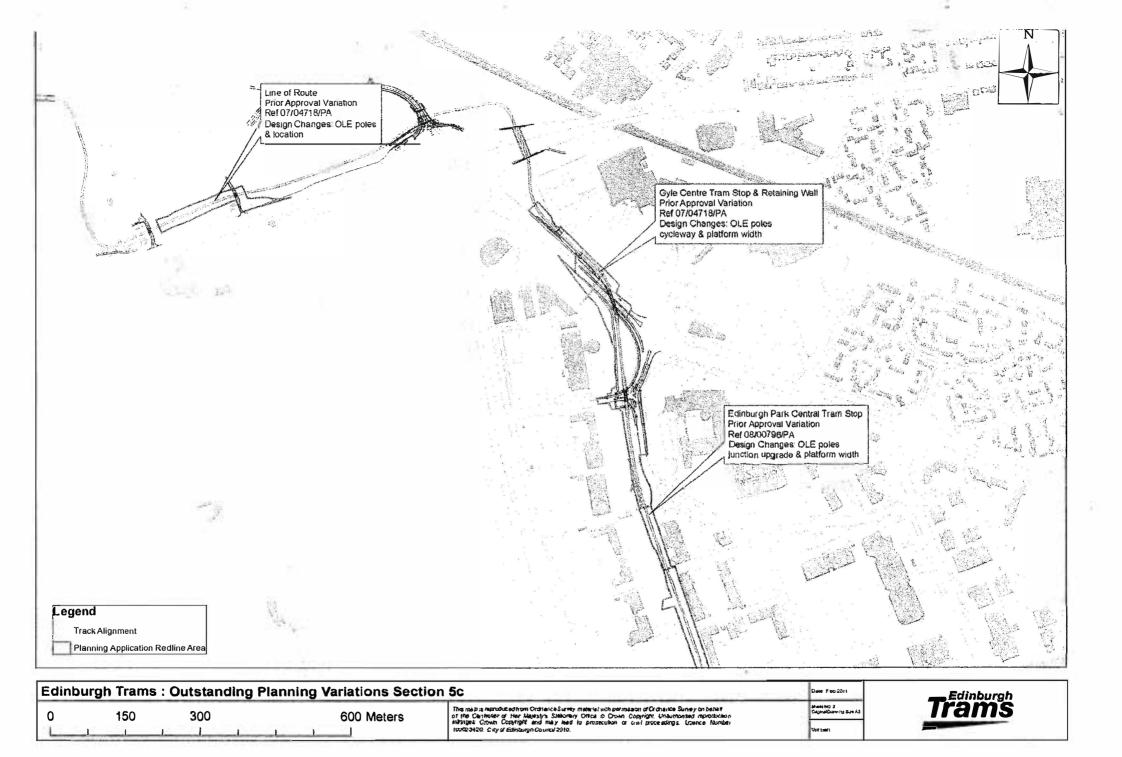
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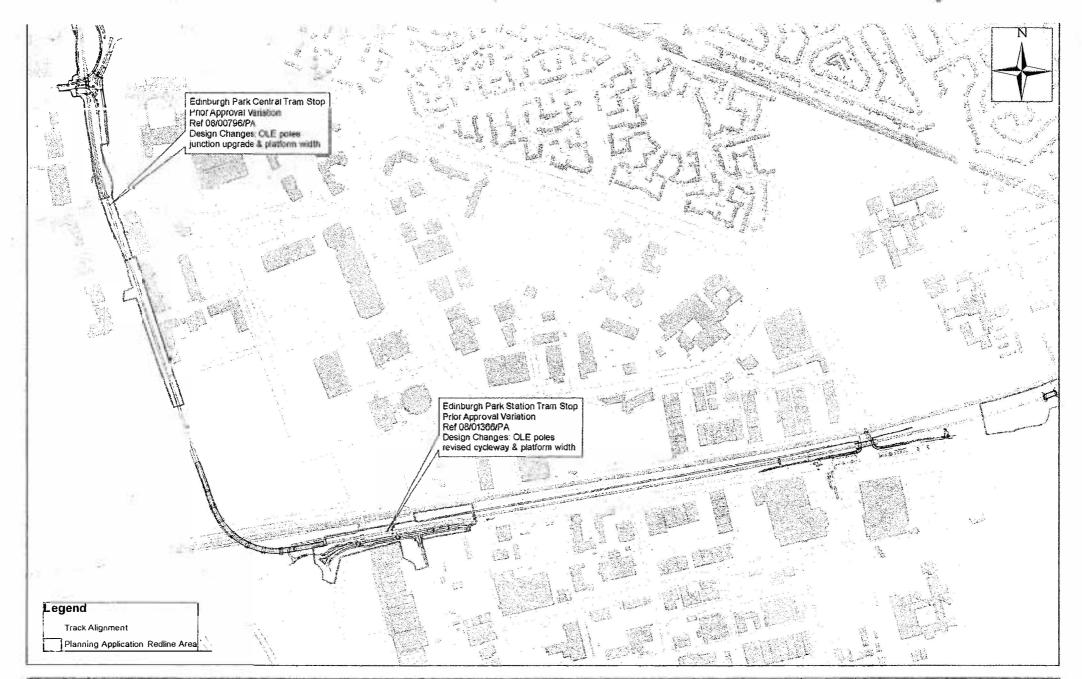


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