

Contents of the Report

Executive Summary

This Executive Summary is intended to provide senior decision-makers with a concise, high-level overview of the Project and the dispute, and to explain how the issues in contention arose and crystallised into a rejected claim. It is designed as a standalone summary of limited length, condensing the key findings of the report without traversing the detailed analysis contained in later sections.

Background

The Background section outlines the history of the Project, including how the parties came to be engaged, the procurement and tender process, and the formation of the contractual relationship. It then describes, at a high level, how the works were delivered in practice and identifies the principal events and circumstances that affected time and cost performance during execution.

Events that led to the dispute

In this example project, the works were planned to proceed on a continuous, section-by-section basis, with each soffit pour occurring at nominal 10-day intervals. At any given time, the wharf was divided into a series of sequential zones, each performing a distinct function within the construction cycle.

As shown in the aerial photograph, the leading soffit immediately in front of the active works operated as a safety and exclusion zone. The next adjacent soffit constituted the active work area, where steel reinforcement was installed and concrete pours were undertaken. Behind this, the previously poured soffit was in a curing phase, during which access and follow-on works were restricted. Further along the wharf, a separate zone was allocated for crane positioning and material staging, enabling preparation for the subsequent soffit pour.

This rolling configuration was intended to maintain continuous production, with each zone advancing forward as the preceding pour was completed and cured, forming an interdependent sequence critical to maintaining the planned construction program.

39. One soffit is shown in the aerial photographs taken on the site:

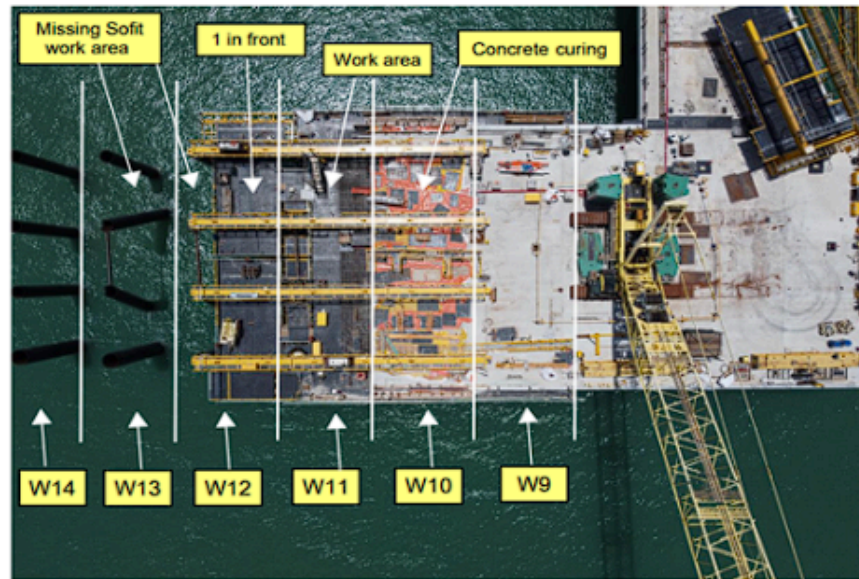


Photo 2 – Drone photo – W11 work area, evidence of the missing W13 and W14 Soffits

This rolling configuration was intended to maintain continuous production, with each zone advancing forward as the preceding pour was completed and cured, forming an interdependent sequence critical to maintaining the planned construction program.

The dispute

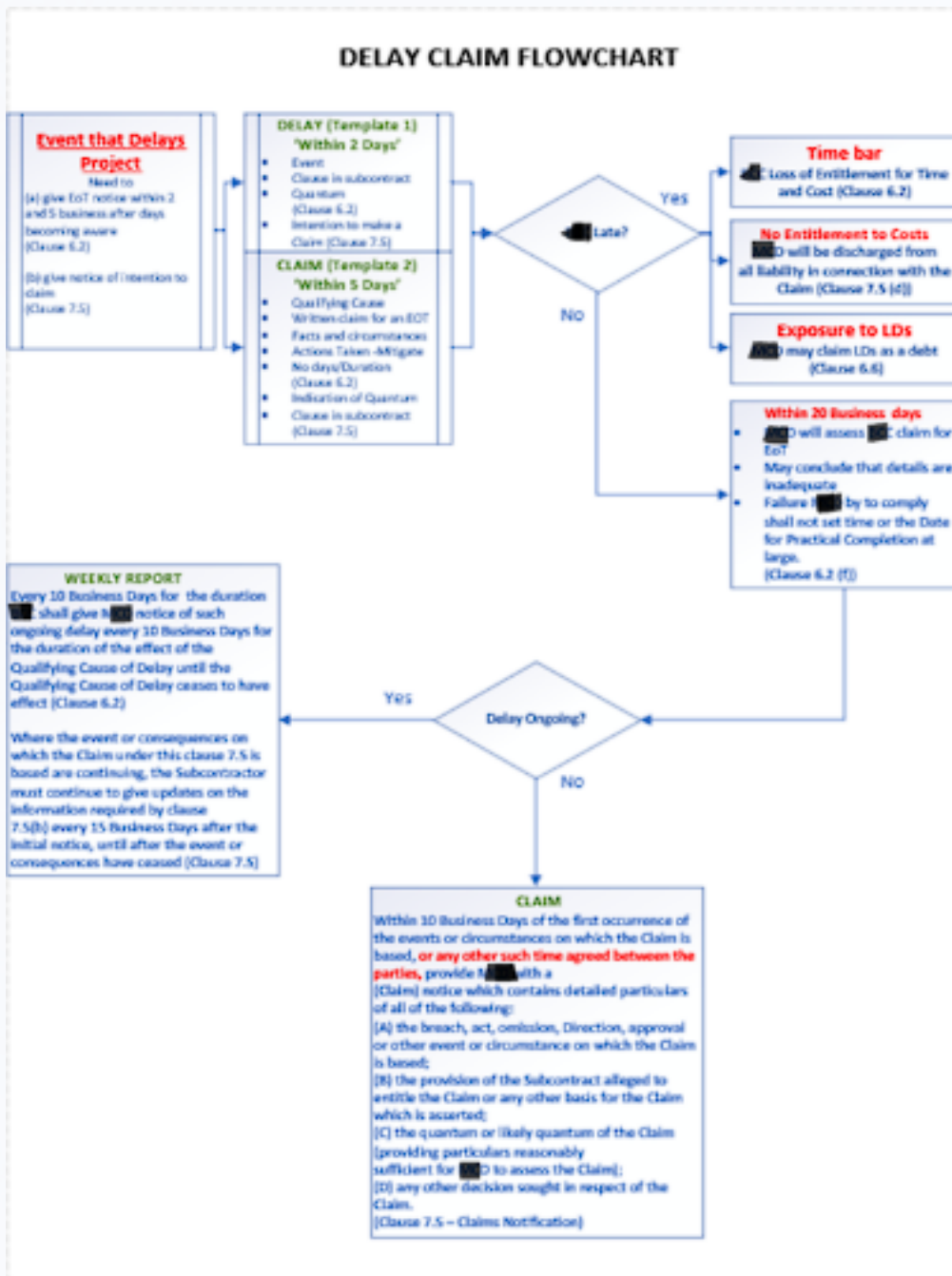
This section explains how issues arising during project delivery culminated in the submission of a claim for additional time and/or payment, and why that claim subsequently became the subject of dispute. In particular, it outlines the operational and sequencing impacts associated with crane selection and deployment on the wharf works.

As the works progressed, it became apparent that the initially deployed crane was undersized for the nature and reach of the required pours. The crane was subsequently replaced with a significantly larger crane mounted on a barge, rather than a vessel, altering both access arrangements and construction methodology.

As a consequence of these constraints and changes, individual pours extended to between approximately 15 and 35 days, materially affecting the continuity of the works. This section explains how those impacts were identified, how they were said to affect time and cost performance, and how they informed the preparation and submission of the subsequent claim, its assessment, and rejection.

Analysis

The analysis section of the report is structured to ensure that complex technical, contractual, and programming issues are accessible to all readers, including those without specialist construction or programming expertise. While the underlying analysis is rigorous and evidence-based, the issues are deliberately distilled into clear, plain-English explanations, supported by visual aids, to assist non-technical decision-makers in understanding cause and effect. This approach reflects our established methodology of making complex construction issues intelligible without sacrificing accuracy.



The report first undertakes a detailed contractual analysis, identifying the provisions relevant to entitlement, including notice requirements, time bars, preconditions to payment, variation mechanisms, and the contractual effect of any directions or instructions issued during the works. This establishes the legal and contractual framework within which the events must be assessed.

Delay and Extensions of Time

The Contract provides at Clause 6.2 (a), that when the Subcontractor becomes aware of anything which would cause any delay to the WUS, it shall promptly give written notice to the Contractor.

Pursuant to Clause 6.2(b), the Subcontractor will be entitled to an extension to the date of practical completion if (ii) within five business days of the date in which the Subcontractor should reasonably have become aware of the qualifying cause of the line occurring the Subcontractor gives the Contractor a written Claim particularizing (a) the facts and circumstances (b) any action that the subcontractor proposes to avoid minimize or mitigate the delay, and the duration.

Pursuant to Clause 6.2(c), where the cause of delay is ongoing, the subcontractor is to give notice of the ongoing delay even at 10 business days for the duration or delay, until the delay ceases to have effect.

Pursuant to Clause 6.2(e), the Subcontractor will use its best endeavours to prevent or mitigate any delay, and the Contractor will have regard to the actions taken by the Subcontractor.

Clause 6.3 provides that the Subcontractor’s entitlement to an EOT shall constitute the exclusive right and remedy against the Contractor with respect to any delay or disruption in the execution of the WUS, including by reason of any breach of the Contract by the Contractor.

Pursuant to Clause 6.4, “Acceleration”, at (c), if the Subcontractor considers that a notice issued by the Contractor either expressly or by implication requires acceleration, the direction or instruction shall be administered in accordance with Clause 7.4(d), which requires the contractor to evaluate a “proposal”.

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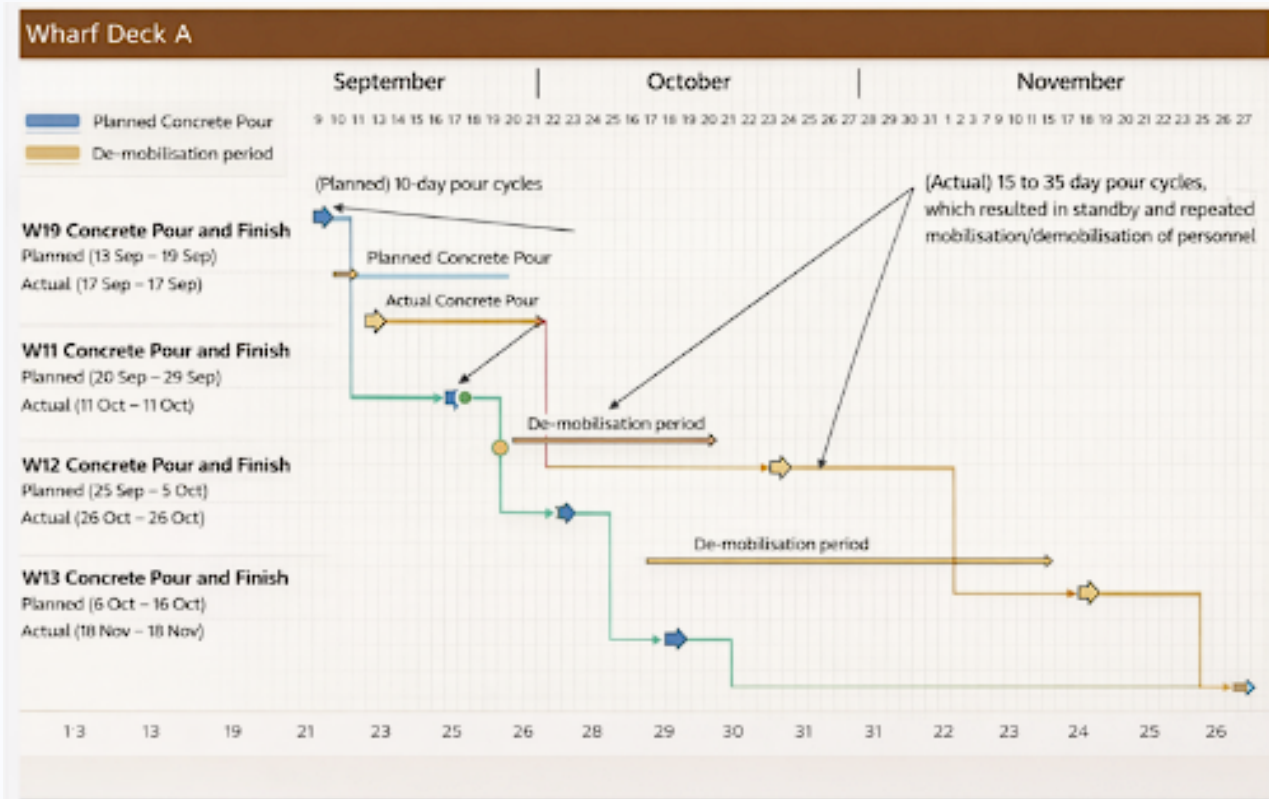
Program to Completion

#	Activity ID	Activity Name	Remaining Duration	Start	Finish	Planned Start	Planned Finish	Actual Start	Actual Finish	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
43	CONME-433	Access Stage A Floor 3 - Ceiling	0			15-Jan-21	20-Jan-21												
48	CONME-435	Access Stage A Floor 3 - Step Edge Formwork / Lip and Formwork	0			15-Jan-21	19-Jan-21												
50	CONME-436	Access Stage A Floor 3 - Step Sills Formwork	0			15-Jan-21	17-Feb-21												
51	CONME-437	Access Stage Deck A - Concrete (P.S.) - Grid 101 to 102 - 300	0			14-Jan-21	13-Feb-21												
52	AS04	Access Stage A Floor 3 - Install temporary platform & Floor slabs 11	0																
53	A140	Access Stage A Floor 3 - Allow crane to abut investigation 1 for Floor 3	0				05-Jan-21												
54	CONME-438	Access Stage A Floor 3 - Sills Formwork	0			09-Jan-21	11-Jan-21												
55	CONME-439	Access Stage A Floor 3 - Tie Reinforcement	0			22-Jan-21	22-Jan-21												
56	CONME-436	Access Stage A Floor 3 - Edge Formwork	0			23-Jan-21	26-Jan-21												
57	CONME-435	Access Stage A Floor 3 - Concrete Pour and Finish	0			24-Jan-21	28-Jan-21												
58	CONME-730	Access Stage A Floor 3 - 10 day access restriction to deck	0			19-Jan-21	07-Feb-21												
59	CONME-438	Access Stage A Floor 3 - Ceiling	0			19-Jan-21	07-Feb-21												
60	CONME-436	Access Stage A Floor 3 - Step Edge Formwork / Lip and Formwork	0			02-Feb-21	02-Feb-21												
61	CONME-435	Access Stage A Floor 3 - Step Sills Formwork	0			22-Feb-21	25-Feb-21												
62	CONME-437	Access Stage Deck A - Concrete (P.S.) - Grid 101 to 102 - 400	0			14-Jan-21	17-Feb-21												

Activity ID	Activity Name	Program (Re-Base)	Prgm Days Between Pours	Actual Pour Date	Days Between Pours	Total Delay
CON-MD-2450	Wharf Deck - Concrete Pour and Finish (Pour W10)	13 Sep 2021		17 Sep 2021		4 days
CON-MD-2590	Wharf Deck - Concrete Pour and Finish (Pour W11)	20 September 2021	<u>7 days</u>	11 October 2021	<u>35 days</u>	21 days
CON-MD-2730	Wharf Deck - Concrete Pour and Finish (Pour W12)	25 September 2021	<u>5 days</u>	26 October 2021	<u>15 days</u>	31 days
CON-MD-2870	Wharf Deck - Concrete Pour and Finish (Pour W13)	06 Oct 2021	<u>11 days</u>	18 Nov 2021	<u>24 days</u>	43 days

Table 3 – Extract from Re-Base program (Appendix B), showing the extensive delays between programmed and actual concrete pours, which resulted necessitated the demobilisation of the Subcontractor’s personnel to minimise the Contractor’s loss.

To assist comprehension, key programming and resourcing impacts are then illustrated graphically. In the example shown, the green line represents the programmed 10-day pour cycles originally contemplated by the parties. The chart also shows the planned workforce levels, which varied between approximately 13 and 21 personnel. As the planned pour cycles were not achieved, the analysis demonstrates how labour resources were subsequently increased in an attempt to recover progress, with workforce numbers rising to a maximum of approximately 31 personnel on certain critical dates in order to complete pours within the available windows.



Valuation

The report then moves into a valuation analysis, assessing each claimed variation or adjustment on an individual basis to determine whether it is contractually valid and, if so, the appropriate method of valuation. This structured and visually assisted approach enables senior management and other non-technical readers to readily understand how the factual history, contractual framework, and resourcing impacts interact.

Applicable Rates

Table B5 (a) - Rates for Variation, Daywork, Labour, provides that labour employed on a dayworks basis shall be paid for the actual hours worked at the hourly rates included in Table B5. The rates are not subject to rise and fall and are inclusive of:

- bonus payments
- enhancement of rates for overtime and shift work
- daily travelling allowance including cost of transport to and from the Site
- insurances
- statutory requirements
- small tools and test equipment
- protective clothing and safety equipment
- industrial training levy
- head office charges and profits
- Project inductions and all other training required

The agreed rates in the Subcontract are:

Item No.	Item Description	Unit	Rate \$/hr Normal time (GST excl)	Rate \$/hr Night shift (GST excl)
2	All craft additional works – steel fix, form setter, concrete labour, labourer	Hr	75	N/A
3	BC Construction Manager	HR	100	N/A

Fig 27 - agreed rates in the Subcontract, Appendix B, Page 94.

The report then presents a quantum analysis to determine the actual cost consequences of the relevant events. Drawing together the project history, contractual entitlement, valuation outcomes, and cost evidence, the report provides a consolidated assessment of the financial implications arising from the matters in dispute.

Opinion

This section sets out our independent opinion, having regard to the factual history of the Project, the contractual framework, the programming and resourcing impacts, and the valuation and quantum analyses undertaken in this report. The opinions expressed are formed on the basis of the information reviewed and the analyses described, and are provided without advocacy for either party.

- In forming our opinion, we consider how the works were intended to be performed, how they were actually performed in practice, and the extent to which departures from the planned methodology affected time, cost, and productivity.

Our opinion draws together the project history and contemporaneous records, the applicable contractual provisions governing entitlement, the assessment of individual variations and adjustments, and the quantum analysis of actual costs incurred. This integrated approach enables a balanced assessment of both entitlement and consequence, rather than a purely technical or purely commercial view.

Based on this analysis, we express an opinion as to what, if anything, either party is entitled to in respect of time and/or payment arising from the matters in dispute. This opinion is intended to assist senior management, insurers, legal advisers, adjudicators, or tribunals by providing a clear, reasoned, and commercially intelligible synthesis of the issues, rather than requiring the reader to reconstruct that position from the underlying technical detail.