

When Should a Contractor Bring in Planning or Claims Support?

Many contractors seek specialist planning or claims assistance only after an Extension of Time claim has been rejected, liquidated damages are being considered or the project has entered formal dispute.

By that stage, important notices may have expired, programme records may be incomplete and the project team may be trying to reconstruct events that occurred months earlier.

Planning and claims support usually provides the greatest value before the contractual position becomes difficult to recover.

Before the project starts

Early planning support can improve the quality of the baseline programme and establish a reliable foundation for progress monitoring.

Before submitting or agreeing to the baseline, the contractor should confirm that the programme:

- represents the intended construction methodology;
- includes the full contractual scope;
- identifies key design, procurement and approval activities;
- contains complete and realistic logic;
- uses appropriate calendars;
- allows sufficient time for contractual reviews;
- clearly identifies milestones; and
- can be updated consistently during delivery.

A weak baseline can create difficulties throughout the project. If the programme does not represent the contractor's genuine plan, it may be of limited value for forecasting, recovery planning or subsequent delay analysis.

When the first material delay occurs

Specialist input should be considered when an event has the potential to affect a critical or near-critical activity.

Typical warning signs include:

- late access to the site;
- delayed drawings or approvals;
- major variations;
- unexpected ground conditions;

- authority or utility delays;
- suspension or restricted work areas;
- late nominated subcontractor appointments;
- delayed principal-supplied materials; or
- significant changes in construction sequence.

At this stage, support may involve reviewing the contract, preparing notices, updating the programme and assessing the likely time impact.

Australian government guidance recommends analysing the time implications of a variation before it is instructed and, where possible, agreeing its effect on time in writing.

When the programme stops reflecting the site

A contractor should seek planning support where the programme no longer provides a reliable representation of actual progress.

Warning signs include:

- large differences between reported and site progress;
- unexplained changes to the completion date;
- frequent changes to the critical path;
- unrealistic remaining durations;
- activities progressing out of sequence;
- excessive constraints;
- missing procurement or design activities; and
- repeated rejection of programme submissions.

An independent review can identify technical weaknesses before they undermine reporting or entitlement.

Before submitting a major EOT claim

Planning and claims support should ideally be engaged before the claim is drafted, not simply to review it after submission.

A specialist can help the contractor:

- confirm the contractual notice requirements;
- identify the correct programme for analysis;
- select a proportionate delay-analysis method;
- establish cause and effect;
- assess the critical-path impact;
- consider contractor delay and concurrency;
- organise supporting records;
- quantify the delay period; and
- present the findings clearly.

The objective is not to make the claim unnecessarily complex. It is to ensure that the submission is logical, evidence-based and capable of independent review.

When recovery measures are being considered

Acceleration and recovery measures can create substantial additional costs. Before committing resources, the contractor should confirm whether the proposed action will actually improve the completion date.

Planning support can test alternative scenarios such as:

- additional shifts;
- increased labour;
- changed sequencing;
- alternative procurement strategies;
- prefabrication;
- parallel work fronts; and
- selective acceleration of critical activities.

This allows management to compare the expected time benefit against the cost and operational risk.

When the parties disagree about the critical path

A disagreement about the critical path is often an early sign that a claim may become disputed.

The contractor may consider one activity critical while the principal or superintendent identifies another path. This can arise because the parties are relying on different programme versions, progress information or assumptions.

Early technical review can clarify:

- the correct data date;
- the status of each activity;
- the controlling logic;
- available float;
- changes in criticality; and
- the relationship between the event and completion.

Addressing these matters early is usually easier than attempting to resolve them during adjudication, arbitration or litigation.

When project records are becoming difficult to manage

Large projects generate significant volumes of correspondence, programmes, reports, photographs and commercial records.

Claims support can help establish structured registers for:

- delay events;
- contractual notices;
- variations;
- requests for information;
- design submissions;
- instructions;
- programme changes;
- mitigation measures; and
- costs associated with prolongation or disruption.

NSW Government guidance emphasises the importance of maintaining contract programmes, project-control records, photographs and meeting minutes.

Early support does not need to be a major engagement

Contractors do not always need a full forensic claims team.

Depending on the project, early support may be limited to:

- a baseline programme review;
- monthly programme health checks;
- review of EOT notices;
- advice on record-keeping;
- preparation of a delay-event register;
- an independent critical-path review; or
- assistance with a specific EOT submission.

A small amount of targeted support at the right time can prevent a much larger reconstruction exercise later.

The best time is before entitlement is at risk

Planning and claims support should be considered as soon as a material delay, programme weakness or contractual uncertainty becomes apparent.

Early involvement gives the project team time to protect notices, maintain reliable programme records, assess the delay contemporaneously and make informed decisions about mitigation.

Once records have been lost or contractual time bars have expired, even a technically valid delay may be significantly harder to establish.

This article provides general information only and does not constitute legal advice. Contractors should obtain project-specific contractual and legal advice where required.