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Type and Wear Passenger Transport  
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Dear Philip and Tom

## **Approval of the Connection Contract at Pelaw Junction between Network Rail Infrastructure Limited and Tyne and Wear Passenger Transport Executive**

1. We have today approved the terms of the above connection contract submitted to the Office of Rail and Road formally on 15 June 2022 under section 18 of the Railways Act 1993 (the Act). This is to support the divestment and transfer of the Jarrow Branch Line from Network Rail Infrastructure (NRI) to Nexus, and to set out the contractual arrangements for the connection of the two networks. Please find enclosed a copy of our directions notice, directing the parties to enter into the contract. This letter sets out the reasons for our decision.

### **Background**

2. On 12 September 2022 Nexus intends to take ownership of the Network Rail-owned single track Jarrow branch line currently used to carry rail freight traffic to the Jarrow Oil Terminal. The transfer of this line requires a connection contract between the parties in relation to the new connection, close to Pelaw Junction. There are currently no contractual arrangements as the Jarrow Branch Line is exclusively used by freight trains serving the terminal. Nexus' network currently sits adjacent to the Jarrow Branch Line but is separate to it. By taking ownership of the Jarrow Branch Line, Nexus will enable further capacity by unifying the two separate infrastructures into a twin-track alignment, enabling more Metro trains to run through whilst maintaining continued freight access to the Jarrow Oil Terminal.

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## Industry consultation

3. Network Rail ran an industry consultation from 28<sup>th</sup> April 2022 and 30<sup>th</sup> May 2022. There were no objections to the proposed connection contract.

## ORR review

4. We had a pre-application meeting on 22 February 2022 with Nexus to discuss its proposed connection contracts. The draft contract, formally submitted on 15 June 2022, predominantly follows ORR's model connection contract but with some differences.
5. Firstly, the contract has a proposed liability cap of [REDACTED] that is greater than the level that can be approved under ORR general approval. Nexus supplied a supplementary document to explain the rationale behind this. Nexus is a busy metro-style network, and therefore consider that a higher than normal liability cap is appropriate, as is the case with the Core Valley Lines (CVL) agreements with Network Rail. Nexus undertook an exercise to calculate the estimated costs of reinstating infrastructure in the event of a derailment. The results of this exercise were supportive of a higher liability cap. This seems proportionate between two network managers who enter into it with their eyes wide open.
6. The parties have also included other additional clauses that are not in ORR's model connection contract:
  - There is a clause (Clause 13.6-9), relating to the Freedom of Information Act (FOIA) which sets out certain obligations for each party for sharing of information. Nexus stated that the clause is a standard term and provides additional structure to the obligations to which it is subject as a public body. It has been negotiated and agreed between the parties. There is a similar term used in CVL contracts. The parties must comply with the FOIA in any event but we see no reason to object to this term in this instance.
  - There is a Data Protection clause (Clause 13.10), which sets out obligations for each party in the sharing of personal data. This is a bespoke clause specifically for Nexus' connection contracts.
  - Clause 6.1(c), taken from CVL's connection contracts, sets out the provision of records to the other party concerning the maintenance, repair and renewal of that party's network within a 500-metre radius of the Pelaw Junction connection point.



Both parties understand the implications of these arrangements. We see no reason to object to these bespoke terms in this instance.

#### **Our duties under section 4 of the Act and our decision**

7. This application is under section 18 of the Act and therefore is agreed between the parties, who are prepared to enter into the agreement.
8. In making this decision, we are satisfied that this decision reflects our duties under section 4 of the Act, in particular:
  - (i) to protect the interests of users of railway assets;
  - (ii) to promote the use of railway network in Great Britain for the carriage of passengers and goods and the development of that railway network, to the greatest extent ...economically practicable;
  - (iii) to promote efficiency and economy on the part of the persons providing railway services; and
  - (iv) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.
9. Under clause 18.2.3 of the connection contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and Nexus. We look forward to receiving the conformed copy.
10. In entering any provision on the register, we are required to have regard to the need to exclude, as far as is practicable, the matters specified in section 71(2)(a) and (b) of the Act. These sections refer to:
  - a. any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the ORR, seriously and prejudicially affect the interests of that individual; and
  - b. any matter which relates to the affairs of a particular body of persons, whether corporate or incorporate, where publication of that matter would or might, in the opinion of the ORR, seriously and prejudicially affect the interests of that body.
11. Therefore, when submitting the copy of the signed agreement would you please identify any matters that you would like us to consider redacting before publication. You will need to give reasons for each request explaining why you consider that



publication would seriously and prejudicially affect your interests.

A handwritten signature in black ink, appearing to read "R. Holt". The signature is stylized with a long horizontal stroke extending to the right.

Yours sincerely

**Ryan Holt**