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11 April 2025

Dear Alice,

**Network Rail Representations for the 35th Supplemental Agreement submitted under Section 22A of the Railways Act 1993 for the Track Access Contract (TAC) between Network Rail Infrastructure Limited and London North Eastern Railway (LNER) Limited dated 03 March 2017**

**1 Purpose**

- 1.1 This letter provides final representations from Network Rail for the 35<sup>th</sup> Supplemental Agreement (SA) submitted under Section (S) 22A of the Railways Act 1993 for the Track Access Application between Network Rail and LNER submitted to ORR on 20 May 2024.
- 1.2 This application relates to four other LNER applications all submitted to ORR on 20 May 2025. This application and the 34<sup>th</sup> SA relate to amendments to Schedule 5 (Part C), whereas the 36<sup>th</sup> SA, 37<sup>th</sup> SA and 38<sup>th</sup> SA relate to amendments to the existing Schedule 5 (Part B). If the 34<sup>th</sup> SA is approved by ORR, then Schedule 5 (Part C) will begin in December 2025 and Schedule 5 (Part B) will fall away.
- 1.3 This representation builds upon the representations submitted by Network Rail for this application on the 28 June 2024, and the 14 March 2025 General Representation on Complex and/or Competing Applications interacting on Location East Coast Mainline (ECML) King's Cross - Edinburgh and Leeds.
- 1.4 The latter of these letters provided important information to support ORR when it comes to making decisions on applications in this geography including context on the work in developing the ECML Policy, ECML Industry Task Force, key performance information, as well as updates on power supply assessment. The annexes to that letter include relevant information including Timetable Performance Analysis and ECML Power Supply Modelling and where there is specific relevance to this application, reference will be made in this representation.

- 1.5 The purpose of this final representation is to provide ORR with Network Rail's final position on this application (and the specific access rights within it) and will do so by providing facts, data, evidence to support our position. As the Passenger Train Slots sought in this application are at the ECML interacting location some of the evidence and data to support our position is contained in the ECML General Representation letter dated 14 March 2025.
- 1.6 Network Rail can confirm that based on the facts, data and evidence outlined in this representation and the ECML General Representation, it is not supportive of the additional Passenger Train Slots being sought in this application but is supportive of the addition of Class 897 Rolling Stock to the Specified Equipment, subject to any comments, suggested amendments or specific issues highlighted in this representation.
- 1.7 Where there are a number of applications seeking capacity at the locations referred to in this letter, and as detailed in Annex A, the basis of our support of applications either in total, or in part (as can be determined by reading the relevant representations), may have a connection to our position on all other applications at that location. You may wish to wait for final representations on related applications and the information provided therein prior to making your decision.

## **2 Background of the Application and Network Rail Representations**

- 2.1 In line with ORR's letter of 24 April 2024 to the industry on 'Competing and/or complex track access applications for December 2024, May 2025, and December 2025 timetable changes', LNER submitted this application to ORR on 20 May 2024 as a S22A application in line with ORR's deadline.
- 2.2 As requested by ORR, Network Rail submitted a High-Level Plan in June 2024, and a further detailed plan was published on Network Rail's website in August 2024 (and updated in January 2025). Network Rail made its initial representations on this application on 28 June 2024 where an initial view of the application Form P and SA was provided. On 24 July 2024 LNER responded to the Network Rail initial representations. Further to this Network Rail issued a General Representation on the ECML to ORR dated 14 March 2025.
- 2.3 In its initial representation on 28 June 2024, Network Rail highlighted a number of items in the "Network Rail Review of Form P and associated documents" section of the letter. Where we have not had a response to the points highlighted we have noted this below for the Operator and/or ORR to address or take into consideration.
- 2.4 The points we would like to highlight from the original representation and the course of action we require, are as follows:
- Within the SA: "London North Eastern Railway Limited are also seeking: The addition of Class 897 tri-mode units to section 5.1 (Specified Equipment) in 10-car formation." "Before Network Rail can accept their inclusion: Network Rail would need to understand the specification for the units and would require an indicative timetable in order to undertake the necessary power modelling." Network Rail can now confirm it has completed the necessary power modelling and this was included in Annex M of the ECML General Representation dated 14 March 2025. Network Rail are expecting that LNER will undertake the necessary Compatibility / Route Clearance and Vehicle Change processes including any requirement for the testing of regenerative braking. Furthermore, it is Network Rail's understanding that the new units will be ETCS compliant (with the upcoming delivery of East Coast Digital railway).
  - Within the Form P: "Section 5.3: Network Rail notes from the SA that the Class 897 units are in 10-car formation but this is omitted from section 5.3." Network Rail would expect LNER to update section 5.3 to mention Class 897 units in 10-car formation.
  - Within the Form P: Network Rail notes that this 35<sup>th</sup> SA is "in addition to the ESG service level as specified in the 34<sup>th</sup> Supplemental Agreement and assumes that the 34<sup>th</sup> Supplemental Agreement has been approved". Network Rail can confirm that its final representations on 34<sup>th</sup> SA were provided to ORR on 28 March 2025.
- 2.5 The points we would like to highlight from LNER's response to the original representation on 24 July 2024 and the course of action we require, are as follows:

- LNER stated that this “application is aligned to phase 1 of Network Rail’s Integrated Rail Plan to deliver an additional 0.5 trains per hour (tph) between London and Leeds”; and “We have also seen the significant issues caused by the granting of temporary/ contingent rights in advance of the delivery of firm rights and would recommend that this is not repeated.” Network Rail can confirm that no business case has been agreed for the delivery of the necessary infrastructure to enable the use of the 0.5 tph applied for in this 35<sup>th</sup> SA and work undertaken for the ESG has shown definitively that this 0.5 tph London King’s Cross – Leeds service uplift cannot be accommodated alongside the other ESG outputs.

### **3 East Coast Mainline (ECML) General Representation Letter dated 14 March 2025**

- 3.1 Network Rail can confirm that this application is seeking the proposed Passenger Train Slots at the interacting location ECML: King’s Cross – Edinburgh and Leeds and therefore the General Representation to ORR on the ECML dated 14 March 2025 is relevant to this application.
- 3.2 Whilst the entire letter is relevant to this application, we would like to highlight key points of that letter which are more pertinent to this application namely “Unused LNER Firm Directed Rights”, “Congested Infrastructure” and “ECML Timetable Performance Analysis”.

#### **3.3 Unused London North Eastern Railway (LNER) Firm Directed Rights**

- 3.3.1 Proposed ECML December 2025 Timetable does not include the Unused LNER Firm Directed Rights (the 0.5 tph) as stated in paragraph 5 in Network Rail’s ECML General Representation letter to ORR dated 14 March 2025. These are 8 LNER firm rights Monday to Saturday, 7 firm rights Sunday only, between London King’s Cross and Leeds via Wakefield or Micklefield directed by ORR in 2016 and which are wholly included in this 35<sup>th</sup> SA.
- 3.3.2 The specification for the LNER service to/from London King’s Cross had been reduced from 6.5 tph to 6 tph with agreement from the Department for Transport (DfT) in 2021. This reduction retained the 0.5 tph London King’s Cross – Middlesbrough service, albeit as far as York, with the 0.5 tph London King’s Cross – Leeds service being descoped. ECML Programme Board on 21 March 2021 noted the recommendation from East Coast Route to defer the 0.5 tph London King’s Cross – Leeds service, including the conditional outcome of journey time reduction between London King’s Cross and Leeds, to a post-ECML ESG [December 2025] future timetable change.

As of 14 March 2025 Network Rail have formally declared congested infrastructure on relevant routes between Huntingdon North Junction (Jn), New England North Jn (Peterborough) and Doncaster Marshgate Jn and Leeds Copley Hill West Jn.

- 3.3.3 Work undertaken for the ESG has shown definitively that this 0.5 tph London King’s Cross – Leeds service uplift cannot be accommodated alongside the other ESG outputs. As such the service cannot run in this timetable or future timetables, alongside the other industry endorsed aspirations without additional infrastructure and associated development activity, which is currently unfunded and uncommitted, and therefore we do not believe the 0.5 tph should continue to be represented in this TAC. Retaining the 0.5 tph in the TAC when we recognise that it cannot be accommodated would be to direct access rights for capacity that does not exist, cannot be used, and potentially signals to others that until such time as LNER were to use it that there is spare capacity available - whereas for the same reason we will also be unable to support any other aspirations for capacity that others may believe temporarily exists.

#### **3.4 Congested Infrastructure**

- 3.4.1 As stated in the ECML General Representation letter dated 14 March (paragraph 6) Network Rail has declared Congested Infrastructure for the December 2025 New Working Timetable for three lines of route on the ECML.
- 3.4.2 Two lines of route that this application is proposing Passenger Train Slots for, are:
  - Between Huntingdon North Jn and New England North Jn (Peterborough); and
  - Between Doncaster Marshgate Jn and Leeds Copley Hill West Jn

## **4 Proposed ECML December 2025 Timetable**

- 4.1 As referred to in the ECML General Representation letter dated 14 March 2025, in February 2024 the ESG closed following an ECML Programme Board endorsement on 17 January 2024 to deploy the new ECML Timetable in December 2024, subject to the outputs of the completed performance modelling.
- 4.2 At the point in time of ORR's letter to the Industry on 24 April 2024, the DfT had accepted a recommendation from the Industry Timetable Assurance Project Management Office (PMO) to funders that the ECML ESG Timetable should be deferred from the December 2024 timetable change.
- 4.3 An ECML Industry Task Force (herein referred to as "the Task Force") commenced in June 2024 as an independently led executive-level cross-industry meeting that provides strategic direction for the work programme. The Task Force develops solutions to the problems of the new ECML Timetable, drives consensus on the outcome(s), and delivers recommendations for industry funders and specifiers.
- 4.4 On 17 October 2024 the Independent Chair of the Task Force wrote to the DfT to advise that the Task Force met on 10 October 2024, reviewed the considerations, issues, and risks, and recommended proceeding with implementation of the new timetable for ECML in December 2025. This was on the basis that the timetable is deliverable and meets the Task Force objectives that were set. Concerns were noted from GB Railfreight (representing themselves and other Freight Operating Companies), ScotRail and Transport Scotland. The Task Force recommendation was accepted by the DfT and subsequently endorsed by the Secretary of State in December 2024.
- 4.5 The Task Force had worked collaboratively up to 31 January 2025 to further de-risk the transition of the ECML ESG timetable from development to timetable production.
- 4.6 Advanced work completed by Network Rail Capacity Planning, to inform the December 2025 timetable risk, involved aligning cross boundary paths in the ECML ESG developed timetable with the latest developments in the wider National Working Timetable (WTT) and associated Rolling Spot Bids (RSB). This process has highlighted that, despite previous timetable development work, the national freight and passenger timetable has evolved and this work has been necessary to reduce the risk that capacity decisions may need to be made during the timetable production period between D-40 to D-26.
- 4.7 Therefore, where in this letter and in the ECML General Representation letter we have referred to the proposed ECML December 2025 Timetable, we are referring to the timetable work above namely, either in full or in part, the:
- timetable which was developed by the ECML ESG and later deferred in April 2024;
  - Timetable where solutions were developed to the problems of the ECML Timetable as part of the Task Force;
  - Advanced Timetable Work (undertaken between April and October 2024) to de-risk the transition of the ECML ESG timetable from development to timetable production; and
  - Advanced work to inform timetable risk including aligning cross boundary paths in the ECML ESG developed timetable with the latest developments in the wider National Working Timetable and associated Rolling Spot Bids.
- 4.8 So where Network Rail highlight in this representation and the ECML General Representation letter (in the relevant annexes to that letter) whether the access rights sought on ECML in each application are as Network Rail expects in the proposed ECML December 2025 Timetable, we are referring to whether the access rights align to the above Timetable work which makes up the proposed ECML December 2025 Timetable.

## **5 Access Rights Contained in the Application linked to the ECML Policy**

- 5.1 All of the Passenger Train Slots in this application were supported under a Section 22 application via the 42<sup>nd</sup> SA which was ORR approved on 20 November 2024, which extended LNER's rights in line with the ECML policy. This meant Schedule 5 (Part C) will begin from the December 2025 timetable change. Extension of the 0.5 tph was supported in the 42<sup>nd</sup> SA as these were directed rights with a presumption of continuity as per ORR's guidance. The 42<sup>nd</sup> SA did not include the proposed addition of Class 897 rolling stock to the list of Specified Equipment.

## 6 Expiry Date Amendment

- 6.1 As stated in section 2.4 above, this 35<sup>th</sup> SA is in addition to the ESG service level as specified in the 34<sup>th</sup> SA and assumes that the 34<sup>th</sup> SA has been approved. The 34<sup>th</sup> SA requested a TAC extension from Principal Change Date (PCD) 2025 to PCD 2030. Network Rail can confirm that the Expiry Date has been amended to SCD 2027 via the 40<sup>th</sup> SA under Section 22 of the Railways Act, as this aligns with the contract between LNER and DfT, as stated in ORR's decision letter dated 20 November 2024. In this 35<sup>th</sup> SA, LNER is seeking an extension of its current contract to 2035 (note in the Form P it is stated in section 1.5 as SCD 2035 and in section 3.3 as PCD 2035) as LNER is investing in new rolling stock to replace remaining legacy rolling stock which will become life expired. Network Rail notes that the current TAC expiry is SCD 2027, that this 35<sup>th</sup> SA is stated to begin from SCD 2028 with an end date in 2035.
- 6.2 Network Rail would like to reiterate, as per its initial representation on 28 June 2024, that an unsupported TAC extension can only be undertaken via Section 17 of the Railways Act and not a Section 22A as per this 35<sup>th</sup> SA. As a consequence, Network Rail cannot support the TAC extension listed in this application however Network Rail will work with LNER to deliver any extension to their current TAC in line with the contract between LNER and DfT, and notes the investment in rolling stock included in this 35<sup>th</sup> SA could be included in a separate application which would enable a longer term TAC (based on ORR guidance). As set out above, a key consideration for Network Rail is that we would not wish to see ORR support the sale of rights that are not intended or able to be used and the establishment of a new TAC provides ORR with an opportunity to take decisions related to geographies that have been affected by changing facts, circumstances, and other commitments.

## 7 Access Rights Sought in the Application

- 7.1 In summary the Schedule 5 rights sought in this application are as follows:

Summary of the rights included in the 35th SA	Specific locations identified in ORR's Letter of 24 April 2024	Interaction
8 return services Leeds – London King's Cross Monday to Saturday via Wakefield Westgate or Micklefield, with one peak service in each direction on a weekday.  With a Calling Pattern the includes a Regular Calling Pattern at Doncaster only with all other calls being Additional stations (Stevenage, Peterborough, Grantham, Newark Northgate, Retford, Wakefield Westgate).	(f) ECML King's Cross-Edinburgh and Leeds	ECML
7 return services Leeds – London King's Cross on Sundays via Wakefield or Micklefield.  With a Calling Pattern the includes a Regular Calling Pattern at Doncaster only with all other calls being Additional stations (Stevenage, Peterborough, Grantham, Newark Northgate, Retford, Wakefield Westgate).	(f) ECML King's Cross-Edinburgh and Leeds	ECML
Class 897 tri-mode units (electric, battery and diesel) in 10 car formation ("897")	(f) ECML King's Cross-Edinburgh and Leeds	ECML

- 7.2 Annex B of this letter contains a table which shows all of the Passenger Train Slots requested in this application when set against the proposed ECML December 2025 Timetable.
- 7.3 The Table in Annex B shows provides details of the Passenger Train Slots characteristics i.e:
- Origin
  - Destination
  - Quantum by Day of Week (Peak or Off Peak)
  - If the Passenger Train Slots are currently held in the contract and proposed change is an amendment to those rights for e.g. calling pattern change, contingent to firm etc.

- Which locations it interacts with from ORR's list of nine locations in their letter to the industry 24 April 2024.

- 7.4 The table also identifies if the Passenger Train Slots origin and destination, quantum and calling patterns sought in the application, are as expected for the proposed ECML Timetable for December 2025.
- 7.5 Network Rail can confirm that none of the Passenger Train Slots sought are already running in the current timetable.
- 7.6 Network Rail can confirm it has no objection in principle to the introduction of the Class 897 rolling stock but would expect standard industry processes to follow, such as establishing a Vehicle Change under Part F of the Network Code and then adding the Class 897 rolling stock to the Specified Equipment via a separate SA under S22 of the Railways Act 1993. Network Rail can now confirm it has completed the necessary power modelling for the Class 897 introduction and this was included in Annex M of the ECML General Representation dated 14 March 2025. Network Rail are waiting for confirmation that LNER will undertake the necessary Compatibility / Route Clearance and Vehicle Change processes including any requirement for the testing of regenerative braking. Furthermore, Network Rail would wish to understand that the new units would be ETCS compliant (with the upcoming delivery of East Coast Digital railway). Network Rail would also require LNER's co-operation on any necessary power mitigations, incorporating these into the Track Access Contract if necessary. For the avoidance of doubt this includes any ad-hoc request to run in 10-car formation and Network Rail notes that the long-term intention is for the Class 897 rolling stock to be only in 10-car formation.
- 7.7 In line with Network Rail's ECML letter to ORR on 14 March 2025, and as per section 3.3 above, Network Rail can confirm that the additional Passenger Train Slots sought in this application are not in line with the proposed ECML December 2025 Timetable (see Annex B appended to this letter for details) and is linked to the Congested Infrastructure declaration as stated in section 3.4 above.
- 7.8 Network Rail would like to acknowledge that LNER notified Network Rail and ORR on 07 January 2025 that the application has not changed from the original application submitted to ORR by 20 May 2024 but LNER stated in the Form P (updated with consultation correspondence at ORR's request) in section 10 that:
- "The rights for 6.5 LNER trains per hour were granted in 2016"; and "Several respondents raised the issue of route capacity for the additional 0.5 tph. We believe this has been covered by Network Rail Integrated Rail Plan which will deliver the capacity for this in the late 2020s". It is Network Rail's understanding that the Integrated Rail Plan (IRP) is a DfT strategy (not Network Rail's IRP) and the delivery of the IRP is subject to the business case and affordability. The proposed ECML December 2025 Timetable (developed by the ESG) is only compatible with the full quantum of directed rights if additional infrastructure is provided to increase capacity, mitigate the predicted performance detriment and is linked to the Congested Infrastructure declaration. As stated above in section 3, Network Rail can confirm that no business case has been agreed for the delivery of the necessary infrastructure to enable the use of the 0.5 tph applied for in this 35<sup>th</sup> SA and work undertaken for the ESG has shown definitively that this 0.5 tph London King's Cross – Leeds service uplift cannot be accommodated alongside the other ESG outputs.
- 7.9 Network Rail notes that this application interacts with two of the locations covered by the declaration of Congested Infrastructure noted in section 3.4 of this letter, and therefore exacerbates existing capacity constraints.

## **8 Assurance / Assessments / Updates**

- 8.1 The following section will address specific areas of consideration, opportunity, and risk relevant to the application or, where applicable, to specific Passenger Train Slots in the application. Where the outputs relate to specific access rights instead of the application as a whole this will be highlighted in the relevant section.

## **8.2 Capacity**

- 8.2.1 In line with Network Rail's ECML letter to ORR on 14 March 2025, Network Rail can confirm that the additional Passenger Train Slots sought in this application are not in line with the proposed ECML December 2025 Timetable.
- 8.2.2 Network Rail can confirm that all of the Passenger Train Slots sought are not running in the current timetable.
- 8.2.3 The ECML December 2025 specification developed by the ECML ESG and subsequent ECML Industry Task Force took a holistic view of capacity and performance whilst considering service specifications, service aspirations and journey time outputs from ECML ESG and Task Force members. ORR in awarding the capacity to one of the operators identified as interacting within Annex A, in line with the proposed ECML December 2025 specification, would be allocating a proportion of the capacity that could otherwise be available to other Operators' applications, or elements of applications, which were not included in the ESG specification and that have additional capacity requests at that location.
- 8.2.4 In the case of any application that is related to the proposed ECML December 2025 Timetable, which was developed, modelled and recommended for progression into the development period - the most applicable alternative option, if the additional Passenger Train Slots sought were not directed, in full or part, would be to allocate capacity to an Operator who has aspirations for an access right with similar characteristics, i.e. Long Distance High Speed services. Consequentially, ORR may wish to consider the impact on the forecast operation and performance of the Timetable and the basis on which The Taskforce recommended the timetable for implementation and the modelling undertaken to assure it.

## **8.3 Performance**

- 8.3.1 Network Rail can confirm that this application was not included in the ECML Timetable Performance Analysis that is included within Network Rail's General Representation to ORR on the ECML dated 14 March 2025. Please refer to Annex L of that letter for further information. The Analysis in Annex L of the ECML General Representation, evidences that: factoring in the increasing level of TSAR above 16 tph over the Welwyn Viaduct and the modelled punctuality of the proposed ECML December 2025 Timetable, any quantum of services above that included in the proposed ECML December 2025 Timetable quantum would further increase the number of services planned on minimum headway, reducing the number of firebreaks in the timetable and the ability to withstand typical variations in train presentation without significant spread of delay between services and across service groups. The addition of trains slots included in this SA would increase quantum above that previously modelled, and recommended, timetable and further evidences why Network Rail is not supportive of the rights sought in this application.

## **8.4 ECML Power Supply Modelling**

- 8.4.1 Network Rail can confirm that this application directly relates to paragraph 11 of Network Rail's General Representation to ORR on the ECML dated 14 March 2025 and is included in the power modelling report which is Annex M to the 14 March 2025 General Representation.
- 8.4.2 Network Rail wish to collaborate with LNER on any necessary power mitigations and, where applicable, set these out in the TAC until such point future power upgrades alleviate the risk. For the avoidance of doubt this includes any ad-hoc request to run in 10-car formation.

## **8.5 Any other risks or cross-route concerns**

- 8.5.1 Network Rail can confirm there are no other risks or cross-route concerns.

## **9 Conclusion**

- 9.1 In this representation letter we have confirmed that Network Rail is not supportive of the additional Passenger Train Slots being sought in this application but is supportive of the addition of Class 897 Rolling Stock once the standard industry processes are concluded (including Vehicle Change) and then adding the Class 897 rolling stock via a separate SA under S22 of the Railways Act 1993. Network Rail has also confirmed in this representation that we do not support the TAC extension for the reasons outlined in this letter.

- 9.2 Network Rail has also highlighted in this letter a number of points we raised in our original representation later a number of points of clarification and amendments required to the proposed Supplemental Agreement submitted with this application, that Network Rail believes have still not been fully addressed or ORR need to take the points into consideration when making a direction on the application.
- 9.3 The proposed ECML Timetable for December 2025 is the output of all the collaboration the industry has undertaken since the ECML ESG was formed in 2019. Our position on this application is an output of that work.

Yours sincerely,



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Customer Manager,  
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**ANNEXES**

**Annex A – Interacting Locations Matrix**

**Annex B – Table of Passenger Train Slots Requested in Application**