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Network Rail Final Representations for the proposed 22nd Supplemental Agreement submitted under Section 22A of the Railways Act 1993 for the Track Access Contract between Network Rail Infrastructure Limited and Freightliner Limited dated 11 December 2016.

This letter provides information that could be used as a final representation from Network Rail for the 22nd Supplemental Agreement (SA) submitted under Section 22A of the Railways Act 1993 for the Track Access Application between Network Rail and Freightliner Limited (Freightliner) dated 11 December 2016.

This representation builds upon the representations submitted by Network Rail for this application on the 28 June 2024 and 22 November 2024, and the 14 March 2025 ECML General Representation on on Complex and/or Competing Applications interacting on Location ECML Kings Cross - Edinburgh and Leeds.

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.

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 and evidence to support our position. As the access rights sought in this application are at the ECML interacting location some of the evidence and data to support our decision is contained in the ECML General Representation letter dated 14 March 2025. Network Rail can confirm that based on the facts, data and evidence outlined in this representation and the ECML General Representation letter dated 14 March 2025. Network Rail can confirm that based on the facts, data and evidence outlined in this representation and the ECML General Representation letter dated 14 March 2025.

This application is flagged as interacting at several of the ORR defined locations. Annex A shows a list of all the interacting applications and which of the nine locations they interact at. However, there are other locations where this application does interact with other unsupported applications.

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.

Background of the Application and Network Rail Representations

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', Freightliner submitted this application to the ORR on 20 May 2024 as a S22A application in line with ORR's deadline.

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 was provided. There were no significant issues highlighted to ORR at that time and there is nothing outstanding from our initial representations on 28 June 2024.those representations.

On 25 October 2024 ORR requested that Network Rail provide further representations for this application. Network Rail responded on 04 December 2024 with a further representation. In that representation we highlighted the following interactions:-

- One new and six amended Rights. which all pass through the following ORR defined locations:-
 - East Coast Main Line
 - o Sheffield area
 - o Sheffield to Derby
 - Derby Birmingham
 - o Birmingham area
 - Oxford

As such, we were unable to progress this application until further work was completed in line with the High-Level plan referenced in that representation and submitted to ORR in June 2024, the further detailed plan published August 2024 and updated in January 2025.

This representation should be read in parallel with the representation letter for the Freightliner Limited 21st SA, because both applications were originally submitted to Network Rail as a single Section 22 application as the Freightliner Limited 18th SA and both contain exactly the same services. Network Rail was unable to support the Freightliner Limited 21st SA at the time due to the tonnage uplift from 1600t to 1800t trailing that Freightliner originally sought being on ECML Event Steering Group (ESG) geography. As part of the Competing and/or Complex Applications process, Freightliner Limited submitted this application for all the Rights characteristic changes (timing windows, days run, intermediate points) in line with the Working Timetable path and for the timing load to be maintained at 1600t (as per the existing Rights) in line with what could have been supported at the time in the ECML ESG. The 21st SA included the tonnage uplift to 1800t trailing on top of these other changes. To be clear, the only differences between the two applications is the uplift in tonnage. Network Rail understands that this application would not be required if the Freightliner Limited 21st SA is approved and would only be necessary if the ECML ESG did not go ahead in December 2025. Therefore, ORR needs to be cognisant of the sequencing of any directions on the 21st and 22nd SAs (e.g. if it later approves the 22nd SA, it would overwrite the 21st SA.)

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

Network Rail can confirm that this application is seeking the proposed access rights at the interacting location ECML: Kings Cross – Edinburgh and Leeds and therefore the General Representation to ORR on the ECML dated 14 March 2025 is relevant to this application.

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 "Congested Infrastructure".

Congested Infrastructure

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.

This application covers one of those locations:-

• Between Doncaster Marshgate Jn and Leeds Copley Hill West Jn

ECML Proposed December 2025 Timetable

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.

At the point in time of ORR's letter to the Industry on 24 April 2024, the Department for Transport (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.

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.

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.

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.

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.

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 timetable work above namely, either 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.

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.

Summary of Access Rights sought in this application

In their application and as a high-level summary Freightliner is seeking:-

- 1 Firm Access Right with 1 hour windows to commence on approval until PCD 2026. This train is currently running under Contingent Rights dated until the end date of the December 2024 timetable and was granted in the Freightliner Limited 27th SA General Approval and is expected to continue under an Interim Approach until the end of the May 2025 timetable.
- 6 amendments to existing Firm Access Rights (with 1 hour windows).
- 3 relinquishments of existing Firm Rights.

Full details of all Rights sought by this application are contained in the Schedule 5 Rights Table submitted with the S22A. These Rights all relate to the operation of intermodal traffic between the Port of Southampton and Leeds Freightliner Terminal and amendments to paths on this route that were completed as part of the 'Southampton Freight Train Lengthening (SFTL) ESG' which were integrated into the timetable in December 2021 and refers to amended timing loads.Details of the exact services can be found in Annexes B, and C

Without reference to those rights sought where we have detailed a rejection, removal, or where we understand rights are being relinquished, we would note the following of the remaining contents of this application:

- All of the prospective access rights interact with the ECML and as a result of the development work undertaken by Network Rail, they are among the expected pattern of services that we are confident can be accommodated. In keeping with our approach to passenger applications we would look to the ORR supporting these without any significant changes to the characteristics and expression of rights sought - and further advice should be sought from Network Rail were the ORR to consider allocating the capacity concerned in any significantly different manner.
- All of the prospective rights use the Sheffield Derby and Derby Birmingham routes .
- All of the prospective rights use the Birmingham area.
- All of the prospective rights pass through Oxford.

Rights supported

Where Network Rail is supportive of firm rights with one-hour arrival/departure windows; this is on the basis of the service being included in the May 2025 Timetable in an area where we have concluded our considerations of any other applications submitted in response to ORR's letter of 24 April (if they exist) and in the proposed December 2025 ECML Timetable and with characteristics and timings consistent with the application (including where the right for a path extends to an outlying geography).

Where a right sought does not interact with the ECML and seeks to operate on a geography where we are still to finalise our view on any notable volumes of complex and potentially interacting rights, key considerations may remain to be concluded and we are unable to provide a definitive view at this time - unless there is a clear reason for doing so which we have set out (such as the local geography being freight only infrastructure).

Where a right application is aligned to a service in the May 2025 Timetable in an area where we have concluded our considerations of any other applications submitted in response to ORR's letter of 24 April (if they exist) and/or in the proposed December 2025 Timetable, with characteristics (e.g. trailing load) not consistent with the timetable paths and / or with timings outside of the requested windows Network Rail is supportive of firm quantum 24hr rights in order to maintain sufficient flexibility to accommodate the request while maintaining the flexibility to accommodate other applications at the relevant locations. If characteristics are different, support may be offered on the basis of either a lesser capacity request or the associated WTT path characteristics.

We have worked with all freight operators to understand and challenge the rights being sought in their applications and confirm the ongoing need.

Where we are supporting rights relating to existing traffic in this and other applications, we would observe that if rights were not awarded by ORR, the paths would have to be removed from forthcoming timetables. Not only would this outcome be inconsistent with the regulatory targets to support freight growth, it is likely that the business would not disappear and it could be reasonably expected that the freight operators would re-bid using the provisions in the model freight contract and the Network Code. In such instances freight operators are likely to require access to otherwise constrained capacity and the likely consequence would likely need to be considered by ORR if looking at any further or future interacting aspirations.

Rights not supported

Although it doesn't apply to any rights in this application, Network Rail cannot currently provide support to rights where they are new services, which have been bid into the December 2025 timetable at D-40 and have not been included in previous timetables, or where we have identified issues within the ECML December 2025 advance work, or where a service has been bid and/or requested with significantly different characteristics to the rights application.

We are also unable to support rights where an operator has removed a service through Capacity Management Review Group (CMRG), has agreed to remove the right from their application in conversation with Network Rail and/or the path has not been bid for the December 2025 Timetable at D-40.

All Rights sought in this application are for train services which operate with diesel locomotives so there are no power supply concerns.

There is nothing outstanding from our initial representations on 28 June 2024.

Assurance / Assessments / Updates

The following section will address specific areas of consideration, opportunity and risk relevant to the application or where applicable to specific access rights 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.

Industry Consultation

Industry Consultation for this application commenced on 24 May 2024, and concluded on 24 June 2024. No concerns were raised relating to any of the headcodes in this application during

consultation. Network Rail have not identified any significant concerns regarding this application.

Capacity

Annex B shows the Rights that Network Rail can support as Firm with a 1 hour window. All these trains have been accommodated into the May 2025 timetable and are in line with the proposed ECML December 2025 timetable. The trains in this category are all running in the current timetable and meet the characteristics and timings consistent withrights included in this application. This support gives certainty to operators and their customers whose trains are already in the timetable and running.

There is one service which has characteristics different to what was originally submitted. This service differs from Rights in other applications where we have applied a Quantum Firm Right approach as it has an existing Firm Right with a 1 hour window. Using the Quantum Firm Rights approach for this is not suitable given Freightliner Limited have an existing Firm 1 hour window which they are seeking to amend in order to align the timings of the path with the right. As such, Network Rail would be supportive of a Firm Right with a 1 hour window providing that Freightliner Limited confirm to Network Rail and ORR that they are willing to amend the Right sought to align with the Working Timetable:-

• The Right sought for 4095 (SX) Leeds FLT – Southampton MCT is for a 21.10 – 22.10 arrival window but the Working Timetable path arrival time is at 20.51. Network Rail would support a 20.21 - 21.21 arrival window.

Network Rail supports the relinquishment of 3 existing Firm Rights made by Freightliner. These can be found in Annex C.

Rights in the Freightliner Limited 22nd SA currently presents conflicts against Rights in the Freightliner Heavy Haul (FLHH) 27th, FLHH 28th, Freightliner Limited 26*th*, CrossCountry Limited 38th SAs and Wrexham, Shropshire & Midlands Railway Company Limited's (WSMR) Section 17 application. Our final representations on FLHH's 28th and Freightliner Limited's 26th SA have been shared and are dated 11 April 2025. The conflicts with the FLHH 27th are against services which are not in the current timetable and have not been submitted for December 2025 at D-40. We will be providing full details in our representation on FLHH's 27th SA at a later date. Network Rail has set out its position of not supportive of additional access rights on the West Coast Main Line South Fast Lines in the General Representation dated 25 April 2025, which is relevant to WSMR's Section 17.

The conflicts between the Freightliner Limited 22nd and CrossCountry's 38th relate to one Freightliner Limited Right (4090). Freightliner Limited already has a firm SX (4054) and SO (4054) right, which they are looking to combine to EWD within this application. The only change to timings windows is by 30 mins on the Saturday departure, other timings are consistent with the existing right. Were these rights not supported, Freightliner Limited would likely withdraw the relinquishment from their application of the corresponding SO right. Therefore, there would be limited impact on available capacity for other operators should the amendment to this right be directed. You may wish to wait for final representations on related applications and the information provided therein prior to making your decision.

Oxford

Sandy Lane, Yarnton Lane and Tackley Level Crossings (LXs) are unable to accommodate additional services where there is an increase in risk without mitigation measures in place. However, Network Rail is able to support this application and Rights within it as the one additional Right (4E44 MO and MSX Southampton MCT – Leeds FLT) passes Oxford at 0455 when barrier downtime is less of a concern, and the others being amendments to existing rights and thus already being existing traffic across the level crossings. In addition, 4E44 (MO) and (MSX) Southampton MCT – Leeds FLT are relinquished as part of this application which previously passed through Oxford at midday demonstrating there is no uplift.

Performance

For all freight applications, Network Rail has assessed the performance of each headcode against the following criteria:

- Right Time Departures average above 80% over 13 periods = pass
- FOC on Other Operators delay less than 5 instances over 13 periods = pass

The following services have not met the criteria but are supported with robust mitigation plans in place (outlined below) :

Train Reporting Number	Days per Week	Departure Window From	Departure Window To	Origin	Destination	Arrival Window From	Arrival Window To	Timing Load
4054	SX	05:45	06:45	LEEDS FLT	SOUTHAMPTON	13:30	14:30	75C66S16
4090	EWD				MCT			75C66S18
4055	SX	11:45	12:45	LEEDS FLT	SOUTHAMPTON	21:10	22:10	75C66S12
4095					МСТ			75C66S18
4 E76	SX	18:30	-19:30	SOUTHAMPTON	LEEDS FLT	01:00	-02:00	75C66S12
4E96		17:45	18:45	MCT		02:10	03:10	75C66S18

All of the above metrics are monitored on a periodic basis and a data led approach used to manage performance through a wide range of forums covering the entirety of network. Some of which are detailed below:

- Performance meetings are in place with Freight Operators on a bi-periodic basis where worst performing services are addressed including RTD concerns and FOC Delay on Others.
- Terminal and Yard working groups are in place across the network to ensure performance is managed in key locations e.g. Felixstowe/Mendip Quarries. Again, worst performing service will be the focus.
- A National Freight Performance Strategy is in place which is based around the PIMS "Whole System Model". This has seen recent success in bringing some Freight Operators together to share a wider range of resources in order to recover the network more quickly in the event of a fleet or wagon failure.
- Regional and route based meetings occur on a regular basis across the network to address performance concerns with the relevant parties be that NR or the freight operators.

As a result:-

- Proposed revised planning rules were agreed for arrival/departure process at Leeds Freightliner: Details and revised joint method of work still to be published.
- Train Planning Rule (TPR) deficiencies being analysed: Site visit planned to observe the arrival/departure process and time services to work out a junction margin value at Stourton Jn (arrivals only).

Certain of the freight representation letters indicate that some of the services that Network Rail is supporting do not meet the usual performance criteria (Right Time Departures and FOC on other operator delay). In order to support these services, Network Rail is relying on specific mitigation plans and revised planning rules and possible changes to the Train Planning Rules, following analysis and identification of deficiencies. There is a risk that the mitigation plans will not be sufficient and that any changes to the Train Planning Rules can't be agreed and will have to go through the lengthy consultation and 'dispute' process, with no guarantee that they will be made in time or in the desired form. This could impact performance.

Conclusion

In this representation letter we have confirmed that we can partially support the access rights sought in this application, with Firm 1 hour windows, as outlined in this representation and Annex B. One right would be supported with an amended arrival window. We also support the relinquishment of three access rights detailed in Annex C. We have also highlighted that this representation letter should be considered alongside the Freightliner Limited 21st SA and that the sequencing of any directions should be considered.

If ORR chooses to direct this application, we would like the opportunity to review any finalised Schedule 5 table drafting before ORR directs.

Network Rail considers that this letter provides information that could be used as a final representation for this application and could enable the ORR to make a direction.

Yours sincerely

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Megan Holman Customer Relationships Executive

Annex A – Interacting Locations matrix

Operator/Application/Ty pe	Status of Application	WCM L south	m	BHM - Derb y	Derby- Sheffiel d	d	ECML&Lee ds	Oxfor d	Gloucest er	
Alliance Rail Cardiff - Edinburgh 17	Withdrawn		x	x	x	x	х		x	x
Avanti 3rd SA 22a	Live	х	x							
Avanti 11th SA 22A	Withdrawn	x	x							
Avanti 14th SA 22A	Withdrawn	x	x							
Avanti 17th SA 22a	Live	х	x							
Avanti 18th SA 22a	Live	x								
Caledonian Sleeper 9th SA 17	Live	x	х				х			
Colas 10th SA 22a	Live			х	x	x	х			x
CrossCountry 38th SA 22a	Live		x	x	x	x	х	x	x	x
DBC 72nd SA 22a	Live				x	x	x			
DBC 73rd SA 22a	Live					x	x			
DBC 79th SA 22a	Live			x			x	х		x
DBC 81st SA 22a	Live		x	x	x	x	x	х	x	x
DBC 86th SA 22a	Live					x	x			
DBC 87th SA 22a	Live		x	x	x	x	x		x	x
DBC 88th SA 22a	Live				x	x	x			
DBC 83rd SA 22a	Live									
DBC 84th SA 22a	Live	x						x		
DBC 85th SA 22a	Live							^		
DBC 91st SA 22a	Withdrawn	x								
DBC 92nd SA 22a	Live									v
DCR 2nd SA 22a	Live	x	x	x	x		x	х		x
DRS 17th SA 22A	Live	x	x	x	x	x	x		x	x
EMR 19th SA 22A	Live						x			
EMR 20th SA 22A	Live				x	x	x			
EMR 21st SA 22A	Live				x	x	x			
FLHH 24th SA 22A	Live	x						x		
FLHH 25th SA 22A	Live	x	x	x	x	x	x	x	x	
FLHH 26th SA 22A	Live	-			x	x	x			
FLHH 27th SA 22A	Live	x	x	x	x	x	x	x	x	x
FLHH 28th SA 22A	Live	x	x	x	x	x	x	x	x	x
FLIM 21st SA 22A	Live		x	x	x	x	x	x	~	^
FLIM 22nd SA 22A	Live		x	x	x	x	x	x		
FLIM 23rd SA 22A	Live	x	x	_			^	^		
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TfW 28th SA 22a x x x TfW 31st SA 22a Live					х					Live	Super Tram 11th SA 22a
TfW 31st SA 22a	x	x					x	x		Live	TfW 28th SA 22a
	x									Live	
	x									Live	
TPT 58th SA 22a Live x x				x	x					Live	
TPT 62nd SA 22a Rights were being sought until Dec 2025 so not included in analysis				x						until Dec 2025 so not	
TPT 63rd SA 22a Live x				x							
TPT 64th SA 22a Live x x				x	x					Live	TPT 64th SA 22a
TPT 65th SA 22a Live x	1			x						Live	TPT 65th SA 22a
Varamis 2nd SA 22a Live x x x x	1			x				x	х	Live	Varamis 2nd SA 22a

Virgin New Contract 17	Live	х	х				
WMT 22nd SA 22A	Live		x	х			
WMT 28th SA 22A	Live		x	х			
WMT 30th SA 22A	Withdrawn		x	х			
WMT 31st SA 22A	Withdrawn		x				
WMT 32nd (29th) SA 22A	Live	х	х	х			
WSMR New Contract 17	Live	х	x	х			

Annex B – Rights that Network Rail can support as Firm with a 1 hour window

Train Reporting Number	Days per Week	Departure Window From	Departure Window To	Origin	Destination	Arrival Window From	Arrival Window To
4054 4090	SX EWD	05:45	06:45	LEEDS FLT	SOUTHAMPTON MCT	13:30	14:30
4 055 4095 ***	SX	11:45	12:45	LEEDS FLT	SOUTHAMPTON MCT	21:10	22:10
4031	SX	17:30	18:30	LEEDS FLT	SOUTHAMPTON MCT	23:20 01:00	00:20 02:00
4E48	SX	22:50	23:50	SOUTHAMPTON MCT	LEEDS FLT	06:30 06:00	07:30 07:00
4 E01 4E91	SX MSX	01:45	02:45	SOUTHAMPTON MCT	LEEDS FLT	09:00	10:00
4E91	MO	02:25	03:25	SOUTHAMPTON MCT	LEEDS FLT	10:25	11:25
4E76 4E96	SX	18:30 17:45	19:30 18:45	SOUTHAMPTON MCT	LEEDS FLT	01:00 02:10	02:00 03:10

***This is dependent on Freightliner confirming to Network Rail and ORR that they are willing to amend the Right sought to align with the Working Timetable. The detail of this can be found in the **Capacity** section in the main letter.

Annex C – Rights that Freightliner want to relinquish

Train Reporting Number	Days per Week	Departure Window From	Departure Window To	Origin	Destination	Arrival Window From	Arrival Window To
4054	SO	05:15	06:15	LEEDS FLT	SOUTHAMPTON MCT	13:30	14:30
4E44	M0 - Y	09:00	10:00	SOUTHAMPTON MCT	LEEDS FLT	17:00	18:00
4E44	MSX - Y	09:00	10:00	SOUTHAMPTON MCT	LEEDS FLT	16:45	17:45