

APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A FREIGHT TRACK ACCESS CONTRACT, OR AN AMENDMENT TO AN EXISTING CONTRACT

ORR ensures that train operating companies have fair access to the rail network and that best use is made of capacity.

Use this form to apply to the Office of Rail and Road (ORR) for:

- Directions under section 17 of *The Railways Act 1993* (the Act) for a new track access contract. This is for companies who want to use Network Rail's network where the parties are not able (for whatever reason) to reach agreement.
- Approval for a new track access contract under section 18 of the Act. This is for use where terms have been agreed by the parties.
- Approval of a proposed amendment to an existing track access contract, agreed by both parties, under section 22 of the Act.
- Directions under section 22A of the Act for an amendment to an existing track access contract. This is for someone seeking an amendment to an existing track access contract to permit more extensive use of the railway facility if the parties are not able, for whatever reason, to reach agreement.

The form sets out ORR's standard information requirements for considering applications. Our [track access guidance](#) (and our [making an application](#) guidance in particular) explains the process, timescales and the issues we will consider. Please read the guidance before completing the contract and this form.

If the facility owner and beneficiary have agreed terms, the facility owner should fill in the form. If not, the beneficiary should fill in the form.

A pre-application industry consultation is usually required before submitting an application. Please see the industry [code of practice for track access application consultations](#) for more information.

Network Rail should normally take responsibility for the pre-application consultation, where the terms are agreed. Before a consultation is made, complete this form up to the end of section 8. You should fill in the rest of the form after the consultation and before applying to ORR.

If, in the case of section 17 and 22A applications, the beneficiary and Network Rail have been unable to agree terms, the beneficiary should:

- (a) ask Network Rail to conduct a pre-application consultation in line with the code of practice; or
- (b) conduct a pre-application consultation itself, in line with the code of practice; or
- (c) submit the application to ORR and ask ORR to conduct the consultation, in which case, please complete this form in full before submitting it to us.

We are happy to talk to you informally before you apply. Please contact us at Track.Access@orr.gov.uk. You should use our current [model freight track access contract](#) as your starting point. Please ensure that you are using the latest version of this form as published on our [website](#). We may ask for applications which have not used the latest templates to be resubmitted.

You may also use and adapt this form if necessary to apply to use railway facilities other than those of Network Rail. Do not use this form for HS1, for which a separate form is available on our [website](#).

1. Application Summary

1.1 Facility owner:

Network Rail Infrastructure Limited ("Network Rail")

1.2 Beneficiary Company:

DC Rail Limited ("DCR")

1.3 With which of the regions does this application interact?

Region:	Southern <input checked="" type="checkbox"/>	Eastern <input checked="" type="checkbox"/>	North West & Central <input checked="" type="checkbox"/>	Wales & Western <input checked="" type="checkbox"/>	Scotland's Railway <input type="checkbox"/>
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1.4 Application under the Railways Act 1993 section:

17	<input type="checkbox"/>	18	<input type="checkbox"/>	22	<input type="checkbox"/>	22A	<input checked="" type="checkbox"/>
				Supplemental Number:		Second	
				Current contract date:		6 th August 2021	
				Current contract expiry date:		6 th August 2026	

1.5 Executive summary of the proposed contract or amendment: (Brief & High Level)

The Rights Table in Schedule 5 of the Track Access Contract (Freight Services) dated 6th August 2021 between the Parties ("the Contract") shall be amended by updating Service Group 6504 (flows 1-XX) with the details listed in Annex 1 of the Supplemental Agreement to be consistent with the June 24 timetable.

Devon & Cornwall Railways is experiencing its largest growth period since being founded. Over the last 12 months DC Rail has started new contracts with some of the largest users of rail freight for transportation of aggregate materials.

Proposed commencement date:	Date of ORR's approval
Expiry date:	6 th August 2026
Date Approved at SOAR	N/A
If rights currently running as TOVRs when did they commence?	N/A

1.6 Industry consultation:

Who carried out the consultation?			
Consultation start date:		Consultation end date:	
Not carried out <input checked="" type="checkbox"/>			

1.7 Applicant details

<p>Network Rail Infrastructure Limited ("Network Rail")</p> <p>Contact individual: Jules Graham Job title: Customer Relationship Executive Telephone number: [REDACTED] E-mail address: [REDACTED]</p> <p>Address: Floor 3, Waterloo General Offices London SE1 8SW</p>	<p>DC Rail Limited ("DCR")</p> <p>Contact individual: Adam Grainger Job title: Head of Production Telephone number: [REDACTED] E-mail address: [REDACTED]</p> <p>Address: Days Space Business Centre, Litchurch Lane Derby DE24 8AA</p>
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1.8 Date of application to ORR:

20th May 2024

1.9 Checklist of documents attached to the application form:

- Proposed new contract or supplemental agreement
- Marked up Schedule 5 (where applicable)
- Marked up comparison to model contract (where applicable)
- All consultation correspondence
- Supporting evidence such as performance improvement plans or modelling exercises.

• Other supporting documents, side letters or collateral agreements (please list):

1.10 Confidential redactions: If there is any information you want us to exclude from publication please list it here and provide full reasons for the redactions. Please provide a redacted version of the document(s) that we can publish.

N/A

2. Licence and railway safety certificate

2.1 Please state whether:

- you intend to operate the services yourself; or
- have them operated on your behalf.
 - if so, please name the proposed operating company:

2.2 Does the proposed operator of the services:

- (a) hold a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, **and**
- (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

If the answer to (a) **or** (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate.

3. The proposed contract or amendment

3.1 Application overview: Please detail the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. This information should be laid out clearly and concisely, and fully highlight the changes from the previous version of the contract (in the case of an amendment).

Over the last 12 months DC Rail has started new contracts with some of the largest users of rail freight for transportation of aggregate materials.

These assets alongside our JNA(T) box wagons allow DC Rail to move bulk aggregate products with some of the heaviest trains on the network, this plays a massive role in DC Rail decarbonising UK transport. The Department for Transport's policy paper, Decarbonising Transport July 2021, states that rail is already one of the most carbon-efficient forms of moving goods over long distances and, where permitted with space on the Network, is improving its environmental performance even further.

DC Rail is seeking 47 new firm rights for materials by rail aggregate traffic. These requests support our weekly / contracted base core services. These flows operate each week and see circa 1.5 million tonnes of material moved per annum.

The services as shown in the attached Schedule 5 Rights Table extract, are being proposed to facilitate and protect DC Rail's long-term legitimate business and investments, described above, whilst maintaining a reasonable balance of flex for operational practicability on the whole of the network, whilst complying to the recent request to submit within letter named '**Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes**'.

3.2 Capacity considerations: Please detail the steps taken by the parties to satisfy themselves that there is sufficient network capacity for the services in the proposal. Include details on all relevant capacity considerations, including but not limited to track and power supply traction. Will the proposed Rights operate over an area subject to a **Declaration of Congested Infrastructure**, or will the capacity requirement result in a Declaration of Congested Infrastructure by Network Rail (under the Network Code)

N/A

3.3 Safety risks: Please explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner's safety authorisation and the train operator's safety certificate).

N/A

3.4 Contract duration: For new agreements or extensions to existing agreements, please provide justification for the proposed duration and, if more than 5 years, with reference to the [Railways \(Access, Management and Licensing\) Regulations 2016](#).

N/A

3.5 Performance: Are there any implications for overall network performance? Please outline your assurance process that shows that any performance risk is tolerable in comparison to the benefits of the application. Please explain any risk mitigations. Please attach any associated evidence to support your case.

N/A

3.6 Maintenance and renewals: Are there any implications for the facility owner's maintenance and renewal activities?

N/A

3.7 Terms not agreed with the facility owner (for applications under sections 17 or 22A only): Please explain any areas of the application which have ***not*** been agreed, the reasons for the failure to agree and the reasons for seeking these provisions.

All aspects of this application are at not-agreed status with Network Rail. This application has not progressed through NR consultation due to the insufficient time available to complete this ahead of the ORR deadline to receive applications of 20th May 2024.

3.8 Bespoke provisions (departures from ORR's model access contracts)

Does the proposed contract include any departures from ORR's model access contract:

Yes

No

If yes, please set out and explain any:

- areas where the drafting of the application changes ORR's published template access contracts (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made.

N/A

- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model access contracts, including the financial implications (e.g. establishment of an access charge supplement or rebate).

N/A

- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete.

N/A

3.9 Consolidated contract

For amendments to existing contracts, is the version of the consolidated contract on our [website](#) fully up to date? If not, please explain why not.

Up-to-date version is on the ORR website

4. The expression of access rights

4.1 Changes to rights: please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please attach a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application.

Please see attached marked up Schedule 5 rights table indicating requested changes and below summary;

- 47 Additional 'New' Access Rights

Service Group Reference	Origin	Destination
6504	Willesden DC Rail Sdgs	Quainton Railhead
6504	Wembley Yard	Quainton Railhead
6504	Quainton Railhead	Aylesbury North Loop
6504	Aylesbury North Loop	Wembley Yard
6504	Wembley Yard	Tytherington
6504	Tytherington	Wembley Yard
6504	Tytherington	Willesden DC Rail Sidings
6504	Aylesbury North Loop	Willesden DC Rail Sidings
6504	Willesden DC Rail Sidings	Bristol East Depot
6504	Bristol East Depot	Tytherington
6504	Tytherington	Quainton Railhead
6504	Quainton Railhead	Wembley Yard
6504	Quainton Railhead	Willesden DC Rail Sidings
6504	Wembley Yard	Tytherington
6504	Willesden DC Rail Sidings	Bristol East Depot
6504	Willesden DC Rail Sidings	Tytherington
6504	Tytherington	Willesden DC Rail Sidings
6504	Milton Sidings	Appleford Sidings
6504	Appleford Sidings	Tytherington
6504	Appleford Sidings	Willesden DC Rail Sidings
6504	Tytherington	Milton Sidings
6504	Willesden DC Rail Sidings	Bristol East Depot
6504	Bristol East Depot	Tytherington
6504	Tytherington	Appleford Sidings
6504	Appleford Sidings	Bristol East Depot
6504	Bristol East Depot	Tytherington
6504	Tytherington	Milton Sidings
6504	Willesden DC Rail Sidings	Merehead Quarry
6504	Merehead Quarry	Willesden DC Rail Sidings
6504	Willesden DC Rail Sidings	Grain Aggregate Terminal
6504	Grain Aggregate Terminal	Willesden DC Rail Sidings

6504	Willesden DC Rail Sidings	Plumstead
6504	Plumstead	Willesden DC Rail Sidings
6504	Willesden DC Rail Sidings	Plumstead
6504	Chaddesden	Tunstead
6504	Tunstead	Humberstone Road No. 5 Top Siding
6504	Humberstone Road No. 5 Top Siding	Chaddesden
6504	Chaddesden	Peak Forest
6504	Peak Forest	Brandon Sidings
6504	Brandon Sidings	Brandon DGL
6504	Brandon DGL	Chaddesden
6504	Brandon Sidings	Brandon DGL
6504	Brandon DGL	Kings Lynn TC
6504	Middleton Towers	Chaddesden
6504	Chaddesden	Ravenhead
6504	Chaddesden	Willesden DC Rail Sidings
6504	Willesden DC Rail Sidings	Chaddesden

The proposed rights are for freight services that are a mix of existing compliant WTT, revised existing WTT schedules & intended WTT's schedules. This is due to the request for future timetable changes within the aforementioned letter.

4.2 Firm rights: Do the Firm Rights in the proposal contract relate to service freight haulage contracts which you hold or will hold? If so, how? How does the duration of these haulage contracts compare with the duration of the proposed track access contract?

DCR holds freight haulage contracts for traffic moving in the Train Slots for which it is seeking Firm Rights

These services and their associated movements, running over multiple days per week, require clearly defined arrival and departure times between the loading/unloading terminal slots at each end of the route. Tightly defined train slots (1 hour 'windows') also help to ensure that the large investment in overhauled locomotives and new box wagons are used to their maximum and that there are no stranded investments over the course of their life for DC Rail.

Approving these Firm Rights for the full period of DC Rail's track access contract gives DCR and its customers the confidence to service their contracts and also to confidently renegotiate said contracts, when due, on an equal basis with other freight operators.

It is also worth noting that the long-term need for some of these flows could extend beyond DC Rail's current track access contract expiry date.

When any of the Freight Access Rights are no longer required, there are two processes that currently cater for changes to be made to DC Rail's track access contract and, therefore, the removal of rights and train slots on a regular basis:

Condition J9 – The Rights Review Meeting: This states that Network Rail shall hold Rights Review meetings with operators as frequently as necessary in order for it to ensure that capacity on the network is shared in the most efficient and economical manner in the overall interests of users, providers, potential providers and funders of railway services.

This condition exists now and should be the main driver of always ensuring maximum capacity. In essence, this application is exactly the result of such a review.

Capacity Management Review Group (CMRG): This is the joint Freight Operating Company (FOC) & Network Rail capacity working group, having started on 9th April 2014 as a result of the CP5 Freight Access Charges determination.

Its purpose is to review and amend current and future rail freight paths based on a “usefulness” and “reasonableness” test. DC Rail now have representation on this group for the first time and after discussion train slots will either be removed or turned into strategic capacity.

This system is the correct way forward and strikes the right balance between removal of unused rights & paths and keeping relevant and useful paths for strategic capacity and future freight use.

The CMRG convenes every three months to ensure reasoned and proportioned industry decisions are made. These two mechanisms are how any rights that are not being exercised are removed from DC Rail’s long-term track access contract.

4.3 Contingent Rights: Please set out the extent to which you expect to use the Contingent Rights in the application. In particular, please state whether the proposed rights are seasonal (eg 3 months each year) or occasional (eg MO, SX, etc)..

N/A

4.4 Window size: Please set out the reasons for the origin and destination window sizes used in the Rights Table in Schedule 5.

This Second Supplemental seeks for:

- 47 New/Aspirational 1 hr 'window' Firm Rights

The duration of these proposed rights are until August 2026.

ORR expects the default position for window size of freight Firm Rights, backed by commercial contracts with end users, to effectively be one-hour windows.

One-hour windows will preserve each of DCR’s end-users’ confidence in its ability to provide the train services and timings they need and enables DCR to plan the future of its business with a reasonable degree of assurance.

4.5 Long Term Planning Process: Is the Long Term Planning Process (or similar devolved authority or regional service delivery project) relevant to this application? If so, please explain how the proposed rights are consistent or inconsistent with this.

N/A

6. Incentives

6.1 Train operator performance: please describe any planned projects associated with the operation of the proposed services aimed at improving your performance.

There are no planned projects associated with the particular flows in the Second Supplemental Agreement.

6.2 Facility owner performance: please describe any planned projects associated with the operation of the proposed services aimed at improving the facility owner’s own performance.

There are no planned projects associated with the particular flows in the Second Supplemental Agreement.

6.3 Restrictions of use: set out and explain the reasons for any changes from the Restrictions of Use regime in the model freight track access contract (Schedule 4)

N/A

7. Enhancement

7.1 Enhancement details: Please provide details of any relevant enhancement schemes. Where the proposal delivers part of, or the associated services are subject to, a network enhancement, please summarise the outputs and timescales of the scheme and explain the extent to which the Part G Network Change procedure has been completed.

There are no network enhancements associated with this Second Supplemental Agreement

7.2 Enhancement charges: please confirm that the arrangements for the funding of any network enhancements are consistent with the [investment framework](#), and summarise the level and duration of payments, and the assumed rate of return.

N/A

8. Associated access contracts

8.1 Associated applications to ORR: please state whether this application is being made in parallel with, or relates to, any other previous, current or forthcoming applications to ORR (e.g. in respect of track access, station or light maintenance depot access contracts). Where the application is being made in parallel with any other application from the same operator, please ensure the applications are consistent with one another. Where the application relies on another operator relinquishing access rights, please provide details.

This application is made under Section 22a of the Railway Act in accordance with the ORR's letter of 24 April 2024 advising on the process for managing competing and/or complex track access applications until the Dec 2025 timetable change.

8.2 Unregulated access: please comment on whether any contracts are being negotiated for access to a facility adjoining Network Rail's network (e.g. to a freight light maintenance depot), including where ORR's approval is not required. For more information, see [The Railways \(Class and Miscellaneous Exemptions\) Order 1994](#). (This is relevant in the context of clause 6.4 of the model contract.)

N/A

9. Pre-application consultation

9.1 The consultation:

If consultation has not been carried out, explain why not.

This application is made under Section 22a of the Railway Act in accordance with the ORR's letter of 24 April 2024 advising on the process for managing competing and/or complex track access applications until the Dec 2025 timetable change

If a consultation has been carried out please:

- state who conducted the consultation;
- list all train operators and any other parties that were consulted, stating which parties responded and attach their responses and any associated documentation to this form; and
- state the period allowed for the consultation. If this was less than one calendar month, please explain the reasons for this.
- If the consultation was concluded some time ago, please explain why you consider it is still valid.
- have there been any material changes since consultation that could affect the validity of the responses received?
- please list any information that you have redacted from any documentation sent to consultees and the reasons for the redactions.

N/A

9.2 Resolved issues: please explain any issues raised by consultees which have been resolved.

N/A

9.3 Unresolved issues: Please explain any issues raised by consultees which have ***not*** been satisfactorily resolved and why you think these issues should not stop ORR approving the application. Include details of steps taken to resolve the dispute such as meetings or counter offers and provide copies of correspondence where available.

N/A

10 Certification

Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution.

In the case of agreed applications under section 18 or 22, the facility owner should fill in the information in the box below. For disputed applications under section 17 or 22A, the applicant should fill in the required information.

I certify that the information provided in this form is true and complete to the best of my knowledge
[Redacted]

Signed A. Grainger Date 20/05/2024
Name (in caps) ADAM GRAINGER Job title Head of Production
For (company) DCRail

For section 18/22 applications, please provide a letter of support from the beneficiary or ask them to sign here:
Signed Date.....
Name (in caps) Job title
For (company)

11. Submission

11.1 What to send: please supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form by e-mail, **in plain Microsoft Word or Open Document Text format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting).

11.2 Where to send it:

Freight Track Access Manager Email: track.access@orr.gov.uk