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19 December 2024

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Network Rail Infrastructure Ltd
Waterloo General Offices
London
SE1 8SW

Lee Armstrong
Head of Rail
Associated British Ports
25 Bedford Street
London
WC2E 9ES

Dear Gian and Lee

Approval of the second supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and Associated British Ports (ABP) dated 9 December 2019.

1. On 12 December 2024 we approved the above supplemental agreement submitted to us on the same day under section 22 of the Railways Act 1993 (the Act). This letter explains the reasons for our decision.

Purpose

2. The purpose of this agreement is to extend the expiry date to The Principal Change Date in 2029.

Industry consultation

3. No industry consultation was conducted as the beneficiary does not have access rights and the changes do not impact on other industry parties.

ORR review

4. Under section 22 of the Act, we may only approve or reject an application. In order for the parties to take account of any modifications we may require to an agreement before approving it we have established a process whereby the parties submit a draft agreement informally for our comments in advance of the formal submission. This



process is set out in our Guidance document “Making an application (for track access)“. In this case, that process was not followed by the parties. We first received the application on 22 November 2024. The supplemental agreement was signed and dated 19 November 2024.

5. Our review noted that the agreement that the parties had made was not capable of extending the duration of the contract. This was due to the agreement seeking to amend clause 1.1 of the TAC, whereas its expiry date is contained within clause 3.1. Following advice from ORR, the parties withdrew their application, and provided an informal submission, with the correct drafting, on 12 December
6. We remind the parties that routine applications for approval of contract changes should be made to ORR six weeks prior to that change being required. We also recommend that the parties follow the processes set out in our guidance documents.

Our duties under section 4 of the Act and our decision

7. We have concluded that approval of this supplemental agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; in particular, those relating to protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network in Great Britain for the carriage of passengers and goods (section 4(1)(b)), contribute to the development of an integrated system of transport of passengers and goods (section 4(1)(ba)), and enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance (section 4(1)(g)).

Conformed copy of the track access agreement

8. Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Freight Customer. Please send the conformed copy to me at ORR.

Public register and administration

9. Electronic copies of the approval notice and the agreement will be placed on ORR’s public register (website) and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely

Margret Haswell