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Rail Access Arrangement Guidelines



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# Purpose and Scope of these Guidelines

These Guidelines provide guidance on the terms and conditions of Access Arrangements under the Rail Management Act (Vic) 1996 (the Act). The Guidelines should be read together with, and in the context of, the Act.

The Guidelines provide guidance on:

* The implementation by an Access Provider of the principle of passenger priority
* The management and notification arrangements for temporary railway track closures
* The management and communication of Freight Train Path and terminal availability
* Arrangements governing:
	+ How long Access Arrangements must be in effect.
	+ Extensions to the time Access Arrangements are in effect.
* The process for amending Access Arrangements.
* Arrangements and processes for resolving disputes between Access Providers and Access Seekers about access to the provision of Declared Rail Transport Services.

The Guidelines are intended to facilitate the negotiation of Access Agreements. The Guidelines also provide guidance on the practical application of rail access maximum prices.

The Minister may amend these Guidelines in accordance with the Act.

Other relevant information can be found on the Department of Transport and Planning’s (DTP’s) website:

* [Rail Freight Network Capability Statement](https://content.vic.gov.au/sites/default/files/2023-12/DTP0458-Statement-of-Freight-Network_v5_FA-%5Baccessible%5D.pdf)
* Notice of Rail Access Pricing Regime

# Victorian Rail Access Regime

The Victorian rail access regime is set out in Part 2A of the Act. Among other things, this Part of the Act allows for the Ministers responsible for the Act (either acting together or individually) to set rail access maximum prices and to establish rail access guidelines. It replaces the previous regime administered by the Essential Services Commission.

In 2021, a General Order was made to allow Part 2A of the Act to be jointly and severally administered by the Minister for Public and Active Transport and Minister for Ports and Freight.

## The Victorian Rail Network

The Victorian Rail Network consists of standard-gauge and broad-gauge lines. Limited sections of the Network are also dual-gauge, which can be used by broad or standard-gauge trains.

In broad terms, the Victorian interstate, regional and metropolitan rail networks are owned by VicTrack and leased to Head, Transport for Victoria.

Head, Transport for Victoria sub-leases the Network to three network managers that are responsible for operations, maintenance, and access provision. These are:

* Metro Trains Melbourne (MTM) –– the metropolitan heavy rail franchisee for the electrified network in Melbourne.
* V/Line Corporation (V/Line) –– the regional broad and standard-gauge networks.
* Australian Rail Track Corporation (ARTC) –– the interstate standard-gauge network, including the Maroona-Portland Line[[1]](#footnote-2).

V/Line and MTM provide passenger rail services on their respective networks. V/Line also provides passenger rail services over parts of the MTM network, for which they pay access charges to MTM.

The ARTC is solely an Access Provider and does not operate passenger or freight trains. The network under ARTC management is subject to the ARTC access undertaking submitted under the national access regime.

## Victorian Rail Access under the Act

The access regime applies to rail transport services that are declared by Order of the Governor in Council to be a Declared Rail Transport Service pursuant to section 38E of the Act.

V/Line and MTM are subject to the Act and must have Access Arrangements in place.

Freight operators may need to negotiate access paths and have Access Agreements with multiple track managers, depending on which sections of the Network they travel on.

The Network includes the assets owned by VicTrack at South Dynon Terminal and the Dynon Intermodal Area within North Dynon are Declared Transport Services and subject to the Act.

# Access to the Victorian Rail Network

# Access Arrangements

***Access Providers to develop and publish Access Arrangements and every amended Access Arrangement on their website.***

Access Seekers have a right to negotiate terms and conditions of access to services with the Access Provider. An Access Arrangement is a publicly available document used to facilitate Access Seeker and Access Provider negotiations to consider an application for access and if successful, reach an agreement on access terms and conditions.



Access Arrangements are used to guide Access Seekers on the process of applying for access to a rail Network and facilitate negotiations in the development of an Access Agreement between an Access Seeker and Access Provider.

It is the responsibility of the access provider to prepare and publish the Access Arrangement.

Contents of a Access Arrangement must:

1. Include the following in relation to every Declared Rail Transport Service to which the arrangement relates
	1. A description of the service
	2. The terms and conditions for the provision of the service in compliance with an applicable Access Agreement content order
	3. The price for the service (which must not exceed the maximum price specified for the service by the Minister);
2. Describe available capacity on the declared rail Network (in accordance with the Statement of Rail Freight Network Capability) and where applicable, at the relevant freight terminal;
3. Describe how the arrangement has regard to the Rail Access Guidelines and the Statement of Rail Freight Network Capability or relevant Assessment of Terminal Spare Capacity;
4. Include a description of the information that the Access Provider will make available to an Access Seeker.
5. Set out the procedure for making of an application by an Access Seeker for the provision to them of a Declared Rail Transport Service; and
6. Describe the procedure and method as to how the Access Provider will assess and determine an application for the provision by them of a Declared Rail Transport Service to an Access Seeker.

When preparing new Access Arrangements complying with the Act, Access Providers should provide the Access Arrangements to the Department of Transport and Planning for comment **90 days** **prior** to publishing.

## Duration of Access Arrangements

Existing Access Arrangements continue to apply until new Access Arrangements complying with the Act are implemented.

The first Access Arrangement that meets the requirements takes effect **60 days** after the day on which the maximum prices specified by the Minister under section 38J that apply to the Declared Rail Transport Services to which the arrangement relates take effect (i.e., 60 days after 1 July).

Under the Act, Access Providers are required to publish Access Arrangements and every amended Access Arrangement on their website.

Initial Access Arrangements are proposed to be in place for **2 years (until 2026)**, subject to any required amendments as described below.

Access Arrangements in place from 2026 onwards will be subject to **a 5-year duration**, at which time a new arrangement will need to be developed and provided to the Department of Transport and Planning for comment.

Each renewed Access Arrangement (every 5 years post 2026) should be provided to the Department of Transport and Planning for comment **90 days prior** to the expiry of the previous arrangement.

***Duration of Access Arrangements***

*Initial Access Arrangements (from 2024) will be in place for 2 years.*

*Following the initial 2-year duration (from 2026 onwards), Access Arrangements will need to be renewed and provided to the Department of Transport and Planning for comment every 5 years.*

*Amendments to Access Arrangements within the duration period should be provided to the Department of Transport and Planning for comment prior to publishing.*

## Amendment to Access Arrangements

An Access Provider must only amend a Access Arrangement as soon as practicable after there is:

1. A change in any regulatory requirements (including rail access Guidelines or a Access Agreement content order) that necessitates an amendment to the arrangement for the arrangement to comply with the Act; or
2. A significant change in a matter referred to in the Arrangement for the Arrangement to reflect the change.[[2]](#footnote-3)

An amended Access Arrangement takes effect on the day on which it is published on the provider ’s internet site. Amended arrangements within an Access Arrangement duration should be provided to the Department of Transport and Planning for comment, prior to being published on the providers website.

## Process for requesting access

Requests for access must be made in writing to the Access Provider in the form prescribed in the Access Arrangement, and include the following:

1. A description of the Declared Rail Transport Services that the Access Seekers want to be provided.
2. A description of the services that the Access Seeker will provide through the use of the Declared Rail Transport Services.
3. Details of the Access Seeker’s -
	1. Management competency
	2. Financial viability; and
	3. Relevant policies of insurance.

In addition to the above, an Access Provider may require that applications for access contain information including, but not limited to:

1. Details of the proposed Rolling Stock, including the type and number of wagons, the number and type of locomotives, and any other information required to assess Rolling Stock performance.
2. The type of freight to be carried, including expected tonnage.
3. A statement of the additions and variations to the terms and conditions specified in the Access Arrangement being proposed by the Access Seeker.
4. Evidence that the Access Seeker has or will have the accreditation necessary to lawfully operate the service it is proposing to operate.
5. The Access Seekers contact details.
6. Any other information reasonable required by the Access Provider to assess and respond to an access application.

## Timeframe for assessment of requests for access

### Acknowledgement of receipt of access application

Upon receiving an application for access, an Access Provider should, by notice in writing to the Access Seeker, acknowledge receipt within **five business days**.

The Access Provider should, by notice in writing to the Access Seeker, within **ten business days** of receipt of the application advise if further information is required, and specify the additional information required for the applicant to be compliant. If no request for further information is received, it can be assumed that the request for access is in the form prescribed and has progressed to assessment phase.

### Assessment of access application

Notice of assessment outcome must be issued, in writing to the Access Seeker, within **30 business days** of receipt of the application.

In undertaking an assessment of the application, the Access Provider must determine, consistent with the Access Arrangement, any network use rules, and any procedures under those rules, whether there is sufficient available capacity to meet the Access Seekers request.

## Grounds for rejecting an access application

An Access Provider may reject an access application if:

1. There is insufficient available capacity to meet the Access Seeker’s request.
2. The Access Seeker does not have or will not have all necessary accreditation to lawfully operate the service it is proposing to operate.
3. The Access Seeker’s Rolling Stock does not comply with the requirements of the Access Provider specified in the Access Provider ’s information pack.
4. The Access Seeker’s equipment or systems are not compatible (e.g., train radio) with the network.
5. The management or the staff of the Access Seeker do not have the necessary knowledge and experience to undertake the proposed rail operations, or the Access Seeker will not be able to engage the services of a qualified person to carry out the proposed rail operations.
6. The Access Seeker does not have the financial capacity to meet its financial obligations to the Access Provider under an Access Agreement.
7. There is reasonable concern that the Access Seeker’s request would result in material safety performance, or cost impacts to the network.

## Unsuccessful applications

Where an application is deemed unsuccessful the Access Provider must include in the notice provided to the Access Seeker, the reason/s why the application was unsuccessful, based on one or more of the grounds for rejection listed above, and:

1. If part (but not all) of the request can be satisfied by available capacity:
	1. The terms and conditions, including price upon which the Access Provider will make the Declared Rail Transport Service requested available to the extent of the Access Provider ’s available capacity.
2. If works are required to provide additional capacity necessary to meet the Access Seeker’s request in full – either:
	1. Provide the Access Seeker with an outline of the works, and an indicative assessment of the cost of such works; or
	2. Offer to undertake an assessment of the works required and the costs of those works in accordance with the protocols prepared and maintained by the Access Provider.

## Successful applications

Where an application is deemed successful the Access Provider must include in the notice provided to the Access Seeker the proposed terms and conditions, including price, upon which the Access Provider will make the Declared Rail Transport Service requested available.

Successful applications under the process set out in the Access Arrangement move forward to negotiation of an Access Agreement.

# Access Agreements

## Negotiation of Access Agreements

*Access Providers should include in their Access Arrangements, a negotiation procedure which outlines the method for negotiating the terms and conditions of agreements for access.*

This procedure should include:

1. Reasonable time periods within which negotiation should occur; and
2. Procedures for resolving disputes arising between the Access Provider and the Access Seeker in relation to the terms and conditions of access, which include:
	1. Time periods that apply to the notification of a dispute
	2. The period within which the CEOs of each party should meet to attempt to resolve a dispute; and
	3. An alternative dispute resolution process that may be implemented (including mediation or binding expert determination), prior to the notification of an Access Regime Dispute to the Minister.

Negotiations on the terms and conditions of access, including price, should be made in good faith to reach agreement between the two parties.

If an Access Provider and Access Seeker are unable to agree to the terms and conditions (including prices) for the provision of a Declared Rail Transport Service, this is considered an Access Regime Dispute. This will trigger the dispute resolution process outlined in the negotiation procedure.

## Access Regime Disputes

There are different types of Access Regime Disputes under the Act, which broadly may arise in the following instances:

1. Disputes where the Access Seeker and Access Provider are unable to agree on the terms and conditions of access.
2. Disputes about the Access Provider ’s compliance with Access Arrangements, negotiation Guidelines or maximum pricing order; including:
	1. where an Access Seeker believe they have been unfairly rejected for an access request
	2. the Access Provider has failed to publish an Access Arrangement in accordance with section 38W; or
	3. the Access Provider ’s Access Arrangement does not meet the requirements of Division 5.
3. Rail infrastructure-related disputes.

## Notification of an access dispute

Section 38ZB provides that an Access Seeker or an Access Provider may notify the Head, Transport for Victoria in writing of an Access Regime Dispute.

On receiving the notification of a dispute, the Head, Transport for Victoria must give written notice of the Access Regime Dispute to the Access Seeker or Access Provider, as the case requires. The person notifying the Head, Transport for Victoria and the person notified by the Head, Transport for Victoria are parties to the dispute.

## Hearing and determining access disputes

Disputes are to be considered by an independent panel established by the Department of Transport and Planning. The function of the independent panel is to hear and determine an Access Regime Dispute.

Hearings must take place as soon as practicable, and the independent panel may decide the periods that are reasonably necessary for the fair and adequate presentation of the respective cases of the parties to an Access Regime Dispute and may require that the cases be presented within those periods.

In hearing and determining an Access Regime Dispute, an independent panel must have regard to the object of the regime, and as the case requires, the Guidelines, the Statement of Freight Network Capability, and any Agreement content order.

Following a hearing the independent panel must decide on Access Regime Disputes within **45** (calendar) **days** of receipt of a notification. The panel, at any time before the expiry of the 45-day period, can request the Minister for an extension of time for deliberations.

This extension must not exceed the time that is 6 months of the date on which the notification of the Access Regime Dispute was received.

Parties to the dispute must comply with any determination made by the independent panel.

# Rail Access Pricing

*Access Agreements must include the pricing being applied by the Access Provider and align to the gazetted pricing order for the relevant financial year.*

## Pricing principles

The Act establishes the regime for the management of rail infrastructure in Victoria.

The Act empowers the Ministers for Ports and Freight and Public and Active Transport to specify maximum prices for Declared Rail Transport Services provided by an Access Provider.

The objective of the Act is to regulate rail access in Victoria in the interests of competition and economic efficiency.[[3]](#footnote-4)

A notice under this section must also specify the Declared Rail Transport Services to which the maximum price will apply and the financial year in which it applies. This notice must be published before 1 June in the year preceding the applicable financial year.

Additionally, the annual change in rail access maximum prices must have regard to a published industry price index that is considered suitable.

It should be noted that the price declaration sets the maximum allowable charge. It is a commercial matter between the Access Seeker and Access Provider should the agreed price be below this.

When setting prices for Freight Services, an Access Provider should have regard to the following matters:

1. The need for prices to be consistent for Access Seekers and users with common freight requirements.
2. The need for prices to be consistent for Access Seekers and users who are provided Declared Rail Transport Services using rail infrastructure in the same geographic zones.
3. The need to minimise administrative requirements and costs imposed on Access Seekers, Access Providers and the Department of Transport and Planning.

## Alternative pricing agreements between an Access Provider and Access Seeker

Where an Access Seeker or user, or a third party on behalf of an Access Seeker or user, makes any contribution towards capital or maintenance expenditure incurred in relation to the provision of Declared Rail Transport Services to that Access Seeker or user, the prices for the provision of those Declared Rail Transport Services should be reduced so that the revenue to be derived from the provision of those services is to be adjusted to take account of the contribution and any ongoing capital or maintenance savings.

# Freight Path Availability

## Statement of Freight Network Capability

A Statement of Freight Network Capability (the Statement) has been approved by the Victorian Government and is available on DTP’s webpage.

For every declared rail Network, the Statement:

1. Describes the proposed level of access that may be provided to freight operators,
2. Provides information on the number of Train Paths for Freight Services,
3. Specifies railway track standards for the Network.

The Statement provides clear and concise information on the standard and availability of Network access to rail freight operators to inform their planning and assessment for current, changed, or new services. The information provides Access Seekers with a more detailed level of knowledge of the Network capacity and availability to support the accuracy of planning before the need to engage with Network managers.

Most significantly, the Statement includes rail path availability and track standard information, including detail on the number of paths for Freight Services.

The path availability detailed in the Statement has been developed based on non-timetabled capacity and is subject to availability within operator timetables.

Where freight path availability changes in the future the Statement will be updated and re-released accordingly.

## Communication and management of freight path availability

Network capacity encompasses the volume of above-rail services that the below-rail Network can provide in a given time period.

Capacity management refers to the processes and procedures governing the allocation, variation, and transfer of Available Train Paths. Such procedures are important components of Network efficiency as the provisions affect the extent to which the rail Network is utilised.

As minimum best practice, Access Providers should:

1. Establish a transparent and equitable process for accessing available capacity, and allocating Train Paths, in response to access applications.
2. Publish available paths online, so that Access Seekers may request available paths.
3. Include a requirement that the capacity allocation process be non-discriminatory, and the Access Provider must not unreasonably favour itself or another organisation over any other organisation, except when applying the principle of passenger priority which is detailed below.
4. Include a process for resolving conflicts between Access Seekers who seek the same Available Train Path based on the principle that the seeker who offers the greatest Train Path Utilisation should be allocated the path.
5. Prevent booking of excess paths by operators by utilising the cancellation fee appropriately.
6. Consider the Statement of Freight Network Capability.

When prioritising the granting of ad hoc path requests the Access Provider must give due consideration to:

1. The sequence in which compliant path requests are received,
2. The maximisation of the Utilisation of the Network,
3. The fair and equitable distribution of paths across stakeholders,
4. Any Network incidents and extreme events impacting the Network, and
5. Security of essential domestic supply chain.

## Connecting Networks

Access to Declared Rail Transport Services and interconnection must be made available on fair and reasonable terms.

If at any time the Train Operator intends to provide services on railways which do not constitute part of the Network, the Train Operator is responsible for obtaining any rail access rights from other owners or authorities.

The Access Provider will cooperate with the Train Operator and with other track owners or authorities to assist the Train Operator obtain of access rights to operate services on railways which do not constitute part of the Network.

The Victorian Government is a participant of the Memorandum of Cooperation, which provides an undertaking by participants, including Infrastructure and Transport Ministers, rail infrastructure owners, managers, and builders; major rail manufacturers and passenger and rail freight operators to consider rail system interoperability ahead of future major rail investments.

Where any Train Operator is requesting access rights or path certainty that are beyond the standard conditions or requirements of these Guidelines in return for commitment to investment or service delivery, the Access Provider is required to raise this request with the State.

The Memorandum of Cooperation supports the principle of an interoperable rail Network but does not mandate financial, legal or any other type of obligation. Financial decisions, funding, and implementation solutions remain the responsibility of relevant jurisdictions and investors.

### Port Rail Shuttle

The rail paths into the Port of Melbourne, as part of the Port Rail Shuttle (PRS), utilise Lines across multiple Access Providers.

Where the PRS is being accessed, each operator of a Terminal at the Port of Melbourne (i.e., Patrick, ACFS and Qube) must be obliged under the terms of its respective Rail Management Agreement (as entered into with the Port of Melbourne) or Rail Operating Licence (as appropriate) to accommodate broad or standard gauge PRS trains within the timetable limitation applicable to those trains (including negotiating any necessary amendments to existing Access Agreements with an existing access holder, but only where any necessary amendments are commercially acceptable to the terminal operator (acting reasonably) and the relevant access holder).

Access Providers are expected to work collaboratively with the State, the Port of Melbourne and any other Access Providers not covered by these Guidelines to facilitate appropriate prioritisation and procedures to support the efficient operation of the PRS Network.

# Rolling Stock Standards

*Access Agreements should include a process to ensure Rolling Stock meets minimum required standards, or where it doesn’t, the Access Seeker should request the Access Provider alter the standards, as necessary.*

A Train Operator should:

1. Maintain all Rolling Stock used by the operator on the Network so that is satisfies the Rolling Stock Standards[[4]](#footnote-5).
2. Ensure that all Rolling Stock used by the operator on the Network is approved for operation by the Safety Regulator (ONRSR).
3. Ensure that all Rolling Stock used by the operator on the Network is equipped with fully operational safety and safe working equipment which is compatible with the safe working systems used by the Access Provider.
4. Ensure that the axle load of the Rolling Stock (including load) does not exceed the (maximum) axle loading weight set out in the Rolling Stock standards prescribed for that part of the Network on which a service is operated. (Unless special dispensation has been approved in accordance with an Access Agreement).
5. Ensure that no Rolling Stock or load exceeds the prescribed dimensional outline for safe operation set out in the Rolling Stock Standards.
6. Ensure that no train exceeds the maximum train length prescribed for that part of the Network on which a service is operated, set out in the Network Operating Standards. (Unless special dispensation has been approved in accordance with an Access Agreement).

If the Train Operator wants to operate Rolling Stock on the Network of a type which does not fully, but at least substantially, meets the Rolling Stock standards, the operator may request the Access Provider to alter the Rolling Stock Standards so as to specifically deal with such Rolling Stock and to specify such requirements for such Rolling Stock as are reasonably necessary to ensure the operation of such Rolling Stock on the Network does not have a material adverse effect on the Network or on the operation of trains on the Network.

The Access Provider should respond promptly to a request by the Train Operator for amendments to the Rolling Stock Standards.

# Declared Freight Terminals

These Guidelines apply to Freight Terminals that are located on rail infrastructure that has been declared under section 38E of the Act. These terminals are considered to be ‘Declared Freight Terminals’ for the purpose of these Guidelines. Companies operating these terminals must apply the Victorian Rail Access Regime as described by these Guidelines. In particular, the ‘Dynon Terminals’ are declared under section 38E of the Act through the Dynon Terminal Order 2005[[5]](#footnote-6) which encompasses the North Dynon and South Dynon freight terminals.

This section summarises the principles governing Access Arrangements for Declared Freight Terminals, Assessments of Terminal Available Capacity, pricing, dispute resolution, data retention and reporting for Declared Freight Terminals.

The following sections of these Guidelines do not apply to Declared Freight Terminals.

* Implementation by an access provider of the principle of passenger priority on page 21-22

All other sections of these Guidelines, including this Declared Freight Terminals section, apply to Declared Freight Terminals.

## Declared Freight Terminal access regime

Companies who operate exclusive Freight Terminal Services at Declared Freight Terminals are required to develop and publish Access Arrangements on a publicly accessible website. Where exclusive terminal services are provided by separate operators at a single terminal (i.e. rail access in terminals provided separately to terminal services), parties can agree to coordinate access arrangements for that terminal through one entity, or develop and publish separate Access Arrangements for their specific exclusive services.

Terminal Access Arrangements should:

1. Include information about the freight terminal:
	1. A description of the Freight Terminal Services provided by that company,
	2. A description of the relationship with track Access Providers needed to access the freight terminal
	3. The terms and conditions for the provision of the available Freight Terminal Services in compliance with an applicable Access Agreement content order
	4. The reference price for each available Freight Terminal Service (which must not exceed maximum price specified for the service by the Minister in the case any maximum price have been specified).
2. Describe the available capacity for the Freight Terminal Service for Access Seekers at the relevant freight terminal by referring to the Assessment of Terminal Available Capacity.
3. Describe how the arrangement has regard to the Rail Access Guidelines and the Statement of Rail Freight Network Capability and relevant Assessment of Terminal Available Capacity.
4. Include a description of the information that the Access Provider will make available to an Access Seeker.
5. Set out the procedure for making of an application by an Access Seeker for the provision to them of a Freight Terminal Service.
6. Describe the procedure and method as to how the Access Provider will assess and determine an application for the provision by them of a Freight Terminal Service to an Access Seeker.
7. State the timeframe for assessment:
	1. Upon receiving an application for access, an Access Provider should, by notice in writing to the Access Seeker, acknowledge receipt **within five business days**.
	2. The Access Provider should, by notice in writing to the Access Seeker, **within ten business days** of receipt of the application advise if further information is required, and specify the additional information required for the applicant to be compliant.
	3. Notice of assessment outcome must be issued, in writing to the Access Seeker, **within 30 business days** of receipt of the application.
8. Detail the process for appeal if the application is unsuccessful.
9. Set out a negotiation procedure which outlines the method for negotiating the terms and conditions of Access Agreements, if the application is successful.
10. Procedures for resolving an Access Regime Dispute arising between the Access Provider and the Access Seeker in relation to the terms and conditions of access, which include:
	* 1. Time periods that apply to the notification of a dispute
		2. The period within which the CEOs (or a delegate) of each party should meet to attempt to resolve a dispute; and
		3. The process and timeframes for a dispute resolution process which may include arrangements for mediation or expert binding determination agreed between parties. Alternatively, parties are also able to seek resolution of Access Regime Disputes through the process set out in the Act under Section 38ZB for the notification of an access regime dispute.

All Negotiations on the terms and conditions of access, including price, should be made in good faith to reach agreement between the two parties. If an Access Provider and Access Seeker are unable to agree to the terms and conditions (including prices) for the provision of a Declared Rail Transport Service, including a Freight Terminal Service, this is considered an Access Regime Dispute. This will trigger the dispute resolution process outlined in the Access Arrangement.

## Assessment of Terminal Available Capacity

The steps related to communication and management of Freight Train Path availability outlined on page 12 are equally relevant to freight terminals which must allocate terminal capacity to provide Freight Terminal Services.

Companies operating Declared Freight Terminals should publish online an assessment of Terminal Available Capacity that:

1. Outlines the available days and times when there is Terminal Available Capacity.
2. Outlines the maximum number and length of Freight Service train wagons that it has spare capacity to handle during those hours.
3. Is consistent with track capacity in the Statement of Freight Network Capability.
4. Is updated within **30 days** for any significant change to estimates of availability and capacity.

Where freight terminal availability changes in the future the Assessment of Terminal Available Capacity should be updated and re-released accordingly. DTP should be notified of the update to the Assessment.

## Declared Freight Terminal pricing principles

Exclusive operators of Freight Terminal Services at Declared Freight Terminals where the Minister has not set any Maximum prices for services must publish reference prices for Freight Terminal Services on a public-facing website. Reference prices should be set on a fair and reasonable basis, taking into account:

1. Capital costs: a risk-weighted return on invested capital, depreciation, management and maintenance costs, allocated to the Access Seeker on a fair and reasonable basis.
2. Direct costs of service provision, and
3. A reasonable commercial return.

Annual changes in reference prices must have regard to costs, as above, cost changes to third party charges, or can increase by a published industry price index that is considered suitable.

Parties are free to negotiate prices which vary from the reference prices as part of their Access Arrangements - this is a commercial matter between the Access Seeker and Access Provider. However, where an Access Seeker has concerns that the published reference prices are unreasonable, it can speak to the Department of Transport and Planning which may review the reference prices and consider advice for the Minister to set maximum prices.

When setting prices for Freight Terminal Services, an Access Provider should have regard to the following matters:

a) The need for prices to be consistent for Access Seekers and users with common freight requirements, this includes consistency with related bodies corporate under the Corporations Act 2001.

b) The need for prices to be consistent for Access Seekers and users who are provided Freight Terminal Services at the same Declared Freight Terminal.

c) The need to minimise administrative requirements and costs imposed on Access Seekers, Access Providers and the Department of Transport and Planning.

If an Access Provider and Access Seeker are unable to agree to the prices for the provision of a Freight Terminal Service, this is considered an Access Regime Dispute which trigger the dispute resolution processes outlined in the Access Arrangement.

## Data retention and reporting

Companies operating within Declared Freight Terminals should record detailed information on each Freight Terminal Service provided. This information includes:

1. Train number/operating date/operating time – scheduled vs. actual.
2. Train configuration (i.e., number of wagons, number of locomotives, train gross tonnes)
3. Train Operator
4. Train type
5. Train GTK
6. Number of containers loaded
7. Number of containers unloaded.

Access Arrangements should include provision for data retention and availability as directed by the Head, Transport for Victoria.

## Reporting Declared Freight Terminal utilisation

Companies operating Freight Terminal Services within a Declared Freight Terminal must provide to DTP every financial year, a report that reports on the performance indicators in respect of that financial year.

A report submitted must include details of:

1. Freight throughput at the terminal, separately identifying containers and other freight
2. Inbound and outbound Freight Services provided (e.g. number of trains, metres of wagons)
3. Utilisation of terminal capacity
4. Percentage utilisation of scheduled terminal capacity
5. The methodology used to produce the calculations in the report
6. Any Freight Terminal Services cancelled by the Access Provider
7. Percentages of on-time train arrivals and on-time departures
8. The number of access requests received
9. The name of Access Seekers that made an access request
10. Timeframes achieved when negotiating access requests
11. The number of access requests refused
12. Reasons for refusing access requests.

# Track Disruptions and Cancellations

*Access arrangements should include a process for managing track disruptions and cancellation (i.e., Day of Operation Protocol) and demonstrate consideration of strategies to reduce the impact on the Access Seeker’s freight operations.*

*This applies to all scheduled and ad-hoc services.*

## Management and duration of temporary track closures

There will be instances when Access Providers may need to temporarily close railway tracks and occupy the track. Examples include activities related to safety, repair, maintenance, upgrading, extension, or construction. These events may result in delaying, cancelling, re-routing, or re-scheduling train movements including any Train Paths allocated. The effective coordination of planned Network disruptions (or occupations) is critical to Network maintenance and capital projects.

Occupation disruptions to the Network have two different types:

* **‘**Occupation**’** means the temporary closure of a part of the Network for the purposes of carrying out repair, maintenance or upgrading work on or adjacent to the Network.
* **‘**Short Notice Track Occupations**’** means urgent possessions or emergency possessions.

When undertaking short or long-term track occupations, strategies should be taken to reduce the impact on freight operations from Network rail disruptions. This includes plans for alternative paths and routes, alternative terminal sites and operational changes that can be made during occupations.

Closure of tracks should only take place where absolutely necessary to complete the required works, and not extend past areas where safety can be effectively managed.

Where an occupation affects a freight service, Access Providers consider any service-specific freight industry disruption planning Guidelines or frameworks that have been prepared by Access Providers and endorsed by DTP. These Guidelines and frameworks, where they have been prepared, provide the disruption planning process with comprehensive insight into each freight service and propose scheduling strategies to reduce the impacts on each freight service.

In the case the proposed maximum recommended disruption period for any given service in disruption Guidelines or frameworks cannot be met, DTP is consulted as part of usual project disruptions governance processes.

Notwithstanding the use of the Disruption Guidelines, in undertaking the management and notification of arrangements for temporary track closures Access Providers at a minimum should:

1. Consult Train Operators (including operators who hold scheduled paths and also run ad-hoc services) in advance of any proposed planned track closures.
2. Provide as much notice to the operator of the relevant track closure including the expected duration of the track closure.
3. Use reasonable endeavours to minimise disruption to the operator’s services likely to be caused by the track closure.
4. To the extent practicable, accommodate any reasonable request made by the Train Operator as to the extent and nature of track closures.
5. Inform Train Operators at the earliest possible convenience, when an Access Provider must occupy or close any part of the Network that is considered necessary for safety reasons.

## Minimum notification period of planned disruption

In planning a track occupation, to the extent reasonably practicable, the Access Provider should consult the Train Operator and consider the operator’s Approved Train Paths and make all endeavours to minimise disruption to the operator’s services.

As a minimum, Access Providers should:

1. Provide the Train Operator of any service that will be impacted, or is likely to be impacted, with at least **90 calendar days’** notice (including details of the nature, scope, extent, and timing) of future planned disruptions and should use reasonable endeavours to provide the Train Operator with more than 90 days’ notice in circumstances where the nature, scope, extent and timing of future planned disruptions is known in advance of the 90 days’ notice period.
2. Use reasonable endeavours to meet the nominated nature, scope, extent, and timing of a planned disruption, and where the nature, scope, extent and timing of a planned disruption is requirement to be amended, the Access Provider should provide the Train Operator with reasonable details of any significant change in the nature, scope, extent or timing of the disruption.
3. Advise the Train Operator in relation on the potential impact from the disruption on the operator’s business, and how this has been minimised through the planning of the disruption.
4. Use all reasonable endeavours to minimise any adverse commercial impact of those disruptions on the Train Operator.

## Managing worksites to facilitate continuity of operations

Where it can be shown that risks can be identified and managed, and that the integrity of the track, structures and clearance is sufficient for the safe passage of a freight train through a worksite, consideration should be given to a conditional hand back of occupations for degraded mode operation under strict conditions.

In general, the following is required to be able to operate:

1. Works to be limited to a worksite where risks can be identified and mitigated with suitable control measures.
2. Track and civil structures suitable for certification to a suitable track class for the desired freight train to operate, usually at reduced speed.
3. A signalling solution that may include alternative safe-working measures for degraded mode operation.
4. Support from the relevant freight Train Operator and crew.
5. A risk assessment involving all relevant parties.

## Short term disruptions

In some circumstances the day-to-day operations of the Network may be subject to unforeseen disruptions that may impact services.

The Access Provider will:

1. Keep the Train Operator properly and promptly informed of any event, activity or incident know to the Access Provider that will, or is reasonably likely to, prevent or materially limit the operation of a service by the operator.
2. Make available to the Train Operator in a timely manner, all published regulations, standards, practices, instructions, directions, and notifications from time to time applicable in Victoria relating to Operational Control or the Network Operating Requirements to the extent that those are relevant to the operation of services.
3. Operate and maintain, or cause another person to do so, a communications system in respect of the Network for the purposes of communications with the Train Operator and other Train Operators on the Network and facilitate the operators’ access to the communications system.

The Access Provider should ensure that all reasonable steps are taken to reduce the impact on operators in the case of an unplanned disruption, including the reasonable implementation of the principle of passenger priority (detailed more below).

## Implementation by an Access Provider of the principle of passenger priority

*Access arrangements**should demonstrate how the principle of passenger priority will be implemented, including in response to track disruptions and cancellations.*

The principle of passenger priority is the giving of reasonable priority to the provision of rail transport services to passenger service users over the provision of rail transport services to other users.

However, without guidance on the practical meaning of ‘Passenger Priority,’ freight Train Operators have found it difficult to gain access to the Network.

**The provision of a passenger service has priority over any non‑passenger service unless, in the particular circumstances, the interference with a non‑passenger service resulting from according that priority would in the opinion of the Head, Transport for Victoria be serious and unreasonable.[[6]](#footnote-7)**

This may include priority in relation to:

1. the allocation of Train Paths
2. service planning
3. real time control and incident management
4. Network maintenance and other works.

Access Providers will prioritise Train Paths associated with the operation (inclusive of the positioning required) of scheduled Passenger Services.

Access Providers should also consider the economic significance of the train operation/s being impacted (e.g., critical food supply chain operations), and ensure that operations of economic significance are prioritised accordingly.

The operation of Freight Services on shared paths shall be permitted where it does not unreasonably impact scheduled Passenger Services. This may include improved freight service performance requirements for access to some paths.

**Access Provider Network service timetables shall include regular freight paths during non-peak periods as specified by the Head, Transport for Victoria.**

The following table should be considered as best practice principles when deciding path priority:

|  |  |
| --- | --- |
| **Order of priority** | **Service pathway** |
| High | Peak period Passenger Services |
|  | Critical Passenger Services |
|  | Critical Passenger Positioning Movements  |
|  | Freight Services |
|  | Non-critical Passenger Services and positioning movements |
|  | Ad-hoc empty Passenger Services |
| Low | Track Machinery |

* Freight service pathways will generally not be available where they do (or are likely to) impact the operation of peak period Passenger Services.
* Critical Passenger Positioning Movements are train movements than cannot be altered without having a major adverse impact on the service provision or robustness of other Passenger Services (e.g. scheduled empty or passenger train movements that travel to a terminus, turn-back and form Passenger Services).
* Passenger Services, Non-Critical Passenger Services and Positioning Movements are train movements that have the prime purpose of supporting an operational need rather than a passenger service need and can be altered without having a major adverse impact on the service provision or robustness of other Passenger Services (e.g. scheduled empty or passenger train movements that have the prime purpose of returning a train to a depot for stabling or maintenance)
* Ad-hoc empty Passenger Services are Unscheduled services where the Train Operator needs to operate a train in response to an operational need on a particular day only. (e.g. re-position a train to a depot if it ended up in the wrong location after a disruption).

Additionally, to provide certainty for both freight and passenger Train Operators, it is proposed that freight paths are graded according to their time of day, level of train restrictions and price.

**Indicative freight path grades[[7]](#footnote-8) by time**



*Peak Hours Exclusion*

* During both the AM and PM peak times the metropolitan rail Network would be off limits to Freight Services. Freight holding roads may be required to allow freight trains to ‘wait out the peak’ if applicable.

## Cancellation of paths by a Train Operator

A cancellation fee (as described in the maximum rail access pricing notice) may be payable by a Train Operator to compensate the Access Provider for its administrative costs and loss of amenity in reserving a path for an Access Seeker.

It is imposed if a booked Train Path which is subsequently cancelled by the Access Seeker and not used. This includes scheduled paths which are not used, as well as cancellation of ad hoc paths.

The fee is applicable unless:

1. The cause of the non-use of the path is due to a delay caused by one or more Access Providers (e.g., at the change of Network); or
2. The Train Operator surrendered or cancelled an Unscheduled service with sufficient notice to the Access Provider (under the terms and conditions of their Access Agreement); or
3. The Train Operator’s failure to use the path was caused by an act or omission of the Access Provider (e.g., occupation of the relevant path), other than a direction which has been given as the result of the act or omission of the Access Provider.

**An Access Provider should not impose a cancellation fee if the cause of the path not being used is beyond the control of the Access Seeker.**

# Data and Reporting Requirements

## Reporting of Data

Access Providers record detailed information on each train movement on its Network. This information includes:

* Train number/operating date/operating time – scheduled vs. actual.
* Train origin, route and destination
* Train configuration (i.e., number of wagons, number of locomotives, train gross tonnes)
* Train Operator
* Train type
* Train GTK
* Train status.

Access Arrangements are to include the provisions of such data to be retained, and made available as directed by the Head, Transport for Victoria, consistent with privacy laws.

Such records must be kept in a form such as to enable them to be reviewed against the Access Provider ’s master train timetable.

## Reporting Utilisation of Train Paths

An Access Provider should provide a report to DTP one month after each quarter of a financial year, a report (a Network activity and performance report) that reports on the performance indicators in respect of the previous quarter.

A report submitted must include, with respect to each Train Operator, details of:

1. Actual Utilisation of Scheduled Train Paths.
2. Actual Utilisation of Unscheduled Train Paths, including maintenance Train Paths but excluding sidings.
3. The methodology used to produce the calculations in the report.
4. Any notices given by the Access Provider to a Train Operator of the variation or surrender of a Train Path.
5. Evidence of the Access Provider ’s compliance with its obligations in providing such notices under (d).
6. Any trains or train services cancelled by the Access Provider.
7. Instances of the unavailability of any part of the rail Network the subject of a Scheduled Train Path, not due to State-sponsored rail Network alterations.

# Glossary

**Access Arrangement** means an Access Arrangement that complies with Division 5 of Part 2A of the Act.

**Access Provider** has the meaning set out in the Act.

**Access Regime Dispute** has the meaning set out in the Act.

**Access Seeker** has the meaning set out in the Act.

**Act** means the *Rail Management Act 1996* (Vic).

**Ad Hoc Empty Passenger Services** mean ad hoc suburban and V/Line positioning and maintenance movements that are not essential to the operation of the base timetable.

**Ad Hoc Train Path** means a Train Path which is not a timetabled Train Path in the Standard Working Timetable, and which is made available to the Train Operator on a specified day.

**Approved Train Path** means:

* + A Train Operator’s Scheduled Train Path; or
	+ A Train Operator’s Unscheduled Train Path.

**Available Train Path** means:

* A Train Path that is not allocated to a user in the Access Provider ’s master train timetable;
* With respect to a Freight Train Path, any path that a useris required to surrender[[8]](#footnote-9);
* With respect to a Passenger Service, any Freight Train Path;
* With respect to an application for a Scheduled Train Path, any other Freight Train Path.

**Cancellation Fee** means a fee payable by an Access Seeker to compensate the Access Provider for its administrative costs and loss of amenity in reserving a path for an Access Provider. It is imposed if a booked Train Path is subsequently cancelled by the Access Seeker and not used. This includes scheduled paths which are not used, as well as cancellation of *ad hoc* paths with insufficient notice.

**Conditional**, in respect of a Freight Train Path, means the provision to an Access Seeker of a Train Path on theAccess Provider Network which:

* Does not conflict with a Passenger Train Path or a Scheduled Train Path; and either
* Provides for optional destinations; or
* Permits the Train Path to be re-allocated:
	+ On the basis of seasonal or intermittent requirements; or
	+ In order to provide reserve or surge capacity.

**Critical Passenger Positioning Movements** mean timetabled movements to form Passenger Services essential to the operation of the base timetable.

**Critical Passenger Service** means all suburban and V/Line services operating outside the peak direction or peak period. They cannot be moved without having a major adverse impact on the service provision or robustness of the passenger service.

**Declared Rail Transport Service** means a rail transport service declared by an Order under section 38E of the Act.

**Declared Freight Terminal** means a Freight Terminal Service declared by an Order under section 38E of the Act. These currently comprise the Dynon Terminals (see definition below).

**Dynon Intermodal Terminal Lease** means the agreement titled the “Dynon Intermodal Terminal Lease” entered into by Victorian Rail Track and Freight Victoria Limited (ACN 075 295 644) on or about 29 April 1999, a amended from time to time.

**Dynon Terminals** means the area at the Dynon precinct that is declared under the Dynon Terminal Order 2005 which is the Order in Council published by the Minister for Transport in Victorian Government Gazette, S259, 16 December 2005, pages 32-33

**Dynon Terminal Order 2005** means the relevant Order in Council published by the Minister for Transport in Victorian Government Gazette, S259, 16 December 2005, pages 32-33.

**Flexible**, in respect of a Freight Train Path, means the provision of a Train Path to an Access Seeker:

* Which does not conflict with a Passenger Train Path or a Scheduled Train Path; and
* Which, for a particular day, the Line entry and exit time (nominated by the Access Provider) is a time as close as possible to the Line entry and exit time requested by the user but not less than 48 hours prior to the requested Line entry time; and
* Where that provision to an Access Seeker arises other than pursuant to an Access Agreement with the Access Provider.

**Freight Services** mean scheduled and ad hoc Freight Services that could operate at any time of the day outside the peak direction within the suburban area.[[9]](#footnote-10)

**Freight Terminal Services** mean activities directly related to loading or unloading a freight train and managing the movement of those goods to an area for storage or transfer. This includes train access to rail sidings to allow for load/unload, terminal operations including loading and unloading of freight from train, staging and short term storage of freight pre/post unloading, and transfer of freight to/from trucks.

**Freight Train Path** means an provision of a Train Path to an Access Seeker on a Network Access Provider to provide Freight Services and includes a Scheduled Train Path and another Freight Train Path.

**Healthy Train** means a train that, having regard to the daily train plan applicable on the day:

* + - presents to the Network on-time, is configured to operate to its schedule and operates in a way that it remains able to maintain its schedule; or
		- is running late only due to causes within the Network, where the root cause is outside the Train Operator’s control; or
		- is running on-time, regardless of previous delays.

**Line/ Railway Line** is made up of one or more tracks forming a route between two points. Where a section of [Network](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Railway_network) comprises two or more Lines running alongside one another, there are as many Lines as routes to which tracks are allotted exclusively.

**Network** means the interconnected rail assets controlled by the Access Provider.

**Non-Critical Passenger Services and Positioning Movements** mean timetabled suburban and V/Line positioning and maintenance movements that are not essential to the operation of the base timetable.

**Passenger Services** means trainsproviding scheduled transport services to people rather than freight or other purposes.

**Passenger Train Path** means either:

* An entitlement of a user under an Access Agreement to use a Train Path on a Network Access Provider to provide Passenger Services which has a fixed Line entry and exit time and fixed intervals for passenger stops; or
* A Passenger Train Path specified in the timetable approved by the Director of Public Transport, as amended from time to time, under section 10 of the *Transport Act 1983*.

**Path Grades:**

*A Grade Path*

1. A Grade paths are provided at times when the rail Network is busy with passenger operations. At these times, passenger trains are operating every few minutes, requiring freight operations to achieve a high level of reliable timekeeping
2. Due to the high volume of passenger trains at these times, there is minimal recovery time available to accommodate freight trains outside their designated path
3. Rollingstock performance, including power-to-weight ratio and braking performance will need to match the prevailing passenger train performance
4. Delayed freight trains may be subject to penalties for late running due to impacts on Passenger Services.

*B Grade Path*

1. B Grade paths are provided after the PM Peak and before the AM Peak where there are less passenger trains operating on the Network
2. Greater availability of Train Paths accommodating varied freight train performance
3. Medium track access fees.

*C Grade Path*

1. C Grade paths are provided when there is minimal or no passenger activity on the Network
2. These paths are the least restricted in terms of rollingstock performance
3. Lowest track access fees
4. Due to the nature of the ‘After Last Before First’ times of C Grade Paths, it is expected that these paths will be affected by rail maintenance works and overnight shutdowns. As a result, it may not be possible to guarantee that a regular path will always be available at these times.

**Peak Direction Passenger Service** means all suburban and V/Line services that complete their journey between 6:00 and 9:00 and/or start their journey between 15:30 and 18:30 within the Melbourne CBD.

**Rail Infrastructure** means a facility that is used to operate a railway and includes -

1. railway track, railway track sidings, associated track structures and works (such as cuttings, tunnels, bridges, stations, platforms, excavations, land fill, track support earthworks and drainage works), over-track structures, under-track structures, service roads, signalling systems, rolling stock control systems, communications systems, notices and signs, overhead electrical power supply systems and associated buildings, depots, yards, plant, machinery and equipment; and
2. a facility or infrastructure not referred to in paragraph (a) that is used to operate a railway that is prescribed (Declared) to be rail infrastructure -

but does not include associated rail infrastructure.

**Reserved**, in respect of a Train Path, means the future entitlement of a user, including an Access Provider or a related body corporate of an Access Provider, to use a Train Path Access Provider and is only received where there are reasonable contractual commitments for its future use.

**Rolling Stock** means locomotives, carriages, wagons, rail cars, rail motors, light rail vehicles, light inspection vehicles, rail/road vehicles, trolleys and any other vehicle that operates on or uses the rail track.

**Scheduled Train Path**, in respect of a Freight Train Path, means the entitlement of a user to use a Train Path on an Access Provider Network for Freight Services which has a fixed Line entry and exit time.

**South Dynon Lease** means the agreement titled the “South Dynon Lease” entered into by Victorian Rail Track and National Rail Corporation Limited (ACN 052 134 362) on or about 15 February 1999, as amended from time to time.

**Terminal Available Capacity** means capacity of the Declared Freight Terminal to provide Freight Terminal Services, excluding capacity necessary to meet contracted entitlements, or otherwise necessary to meet current actual terminal usage.

**Track Machinery** means on-rail train maintenance machinery.

**Train Operator** means the operator that will operate the trains in accordance with the Access Agreement.

**Train Path** means having a right (whether arising under an agreement or otherwise) to operate Rolling Stock between locations on a Network at particular times.

**Unhealthy**, means a train that has not entered the Approved Train Path at the entry point on time or has lost time en-route because of “above rail” causes so that in either case it is not expected to exit the Approved Train Path at the exit point on time.

**Unscheduled**, in respect of a Freight Train Path, means a Conditional Train Path, a Flexible Train Path, or any other Train Path that is not a Passenger Train Path or a Scheduled Train Path.

**Utilisation**, with respect to a Train Path, means the frequency with which the Train Path is used. A Train Path is used when a train is:

* Presented at the scheduled Line entry point
* Exits at the scheduled Line exit point
* The times of entry or exit are not dissimilar to the scheduled Line entry and exit times so as to require the issue of a separate or new Train Path[[10]](#footnote-11); and
* The relevant train operates reasonably in accordance with the terms of the Access Agreement or existing arrangement or dispute resolution decision applicable to that train on that Train Path.
1. The ARTC is also responsible for the 126km Benalla-Oaklands Line under a Branch Line Infrastructure Agreement with the Victorian Government. [↑](#footnote-ref-2)
2. Rail Management Act (1996) Section 38V, Authorised Version No. 068 incorporating amendments as at 22 November 2023. [↑](#footnote-ref-3)
3. Rail Management Act 1996 (Vic), S. 38F. [↑](#footnote-ref-4)
4. As defined in the Access Provider s’ Network Operating Requirements. [↑](#footnote-ref-5)
5. Minister for Transport, ‘Dynon Terminal Order 2005’ in Victorian Government Gazette, S259, 16 December 2005, page 32. [↑](#footnote-ref-6)
6. TRANSPORT (COMPLIANCE AND MISCELLANEOUS) ACT 1983 - SECT 10 <https://www5.austlii.edu.au/au/legis/vic/consol_act/tama1983385/s10.html> [↑](#footnote-ref-7)
7. See Glossary for definition of path grades. [↑](#footnote-ref-8)
8. If an Access Provider determines that the user has failed to demonstrate its ability to utilise or fully utilise a Train Path to the extent contemplated in the Access Agreement or is in breach of relevant legislation or any applicable standard, the Access Provider must by notice in writing to the use require the user to surrender the Train Path. [↑](#footnote-ref-9)
9. Freight service pathways will generally not be available where they do (or have likely potential to) impact the operation of peak direction passenger services. [↑](#footnote-ref-10)
10. There is no failure to use a Train Path if the failure occurs: because an **Access Provider** and a **user** agree to substitute an alternative **Train Path**; or because of a **force majeure event** or because the **Access Provider** does not make the **rail network** available to the **user**, other than as a result of an act or omission of the **user**. [↑](#footnote-ref-11)