Victorian Rail Access Regime Guidelines

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# Purpose and Scope of these Guidelines

These Guidelines set out the terms and conditions of rail access arrangements. As permitted by the *Rail Management Act* (1996) (the Act), this includes 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 availability
* Arrangements governing:
	+ How long rail access arrangements must be in effect.
	+ Extensions to the time rail access arrangements are in effect.
* The process for amending rail 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 provide the necessary scope and requirements of an Access Arrangement and facilitate the negotiation of Access Agreements. The Guidelines also provide guidance on the practical application of maximum rail access pricing.

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

Other relevant information can be found on the DTP 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 (VRAR) is set out in Part 2A of the Act, which allows for the Ministers responsible for the Act to set rail access maximum prices and to establish rail access guidelines, which replace 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.

Prior to the setting of rail access prices, section 38P and 38Q of the Act requires the Head, Transport for Victoria to prepare and publish a Freight Network Capability Statement in consultation with the Minister, which can be found on DTP’s website.

## 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 (the access providers) 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-1).

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 approved 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 also consists of several rail terminals used for loading and unloading freight. Some regional terminals are operated by independent operators who contract with rail operators to provide container services to the Port of Melbourne. None of these terminals are subject to the Act.

At the Port of Melbourne, there are several on dock and off dock terminals that are owned by either VicTrack or the Port of Melbourne and leased to terminal operators. Of these, only South Dynon Terminal and the parts of North Dynon operated by VicTrack are subject to the Act.

# Access to the Victorian Rail Network

An ***access provider*** is a person/s if they provide, or can provide, a declared rail transport service, as defined under section 38A of the Act.

An ***access seeker*** is an accredited person within the meaning of the ***Rail Safety National Law (Victoria)*** who wants to be provided a declared rail transport service by an access provider.

# Access Arrangements

***Access Providers are required to develop and publish Access Arrangements and every amended rail 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 rail 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 rail 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)
3. Describe how the arrangement has regard to the Rail Access Guidelines and the Statement of Rail Freight Network Capability
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.

## Duration of Access Arrangements

Existing access arrangements continue to apply until new access arrangements complying with the Act are approved by the Minister.

The first rail access arrangement that meets the requirements approved by the Minister, 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 rail 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 approved by the Minister.

Each renewed access arrangement (every 5 years post 2026) must be provided to the Minister for approval **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 approved by the Minister every 5 years.*

*Amendments to access arrangements within the duration period must be approved by Head, Transport for Victoria, prior to publishing.*

## Amendment to Access Arrangements

An access provider must only amend a rail access arrangement as soon as practicable after there is:

1. A change in any regulatory requirements (including rail access guidelines or a rail 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-2)

An amended rail 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 must be approved by Head, Transport for Victoria, 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 must, by notice in writing to the access seeker, acknowledge receipt within **five business days**.

The access provider must, 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*** *must include in their* ***access arrangements****, a* ***negotiation procedure*** *which outlines the method for negotiating the terms and conditions of agreements for access.*

This procedure must 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 must 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, must 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 approved 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-3)

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 must 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.
4. The principles of efficient price discrimination for relevant freight and end market characteristics.

## Alternate 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 must 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 operator intends to provide services on railways which do not constitute part of the network, the operator is responsible for obtaining any rail access rights from other owners or authorities.

The access provider will cooperate with the operator and with other track owners or authorities to assist the 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 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*** *must include a process to ensure rolling stock meets minimum required standards, or where it doesn’t, the* ***access seeker*** *must request the* ***access provider*** *alter the standards, as necessary.*

**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.

The Operator must:

1. Maintain all rolling stock used by the operator on the network so that is satisfies the Rolling Stock Standards[[4]](#footnote-4).
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 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 must respond promptly to a request by the operator for amendments to the Rolling Stock Standards.

# Track Disruptions and Cancellations

***Access Arrangements*** *must 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 must 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 must 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 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 Operator as to the extent and nature of track closures.
5. Inform 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 must consult the operator and consider the operators approved train paths and make all endeavours to minimise disruption to the operator’s services.

As a minimum, access providers must:

1. Provide the 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 must use reasonable endeavours to provide the 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 must provide the Operator with reasonable details of any significant change in the nature, scope, extent or timing of the disruption.
3. Advise the 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 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 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 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 operator and other train operators on the Network and facilitate the operator’s access to the communications system.

The access provider must 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*** *must 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 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.[[5]](#footnote-5)**

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 must 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).
* 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 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 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[[6]](#footnote-6) 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 an Operator

A cancellation fee (in line with the approved pricing schedule) may be payable by an Operator 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 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 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 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.

**A cancellation fee should not be levied 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 required 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 must 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 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 an 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 approved in a final decision that complies with Division 5 of Part 2 of the Act, or a proposed access arrangement that is deemed to comply with Division 5 of Part 2 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** means a person seeking to be provided a **declared rail transport service** by an **access provider**, or a person seeking **interconnection.**

**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 Rail Operator on a specified day.

**Approved Train Path** means:

* + An Operator’s Scheduled Train Path; or
	+ An 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 **freight train path** that a **user** is required to surrender[[7]](#footnote-7);
* 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 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.

**Conditional**, in respect of a **freight train path**, means the entitlement of a **user** to use a **train path** on a **rail network** of an **access provider** which **train path**:

* 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.

**Flexible**, in respect of a **freight train path**, means the entitlement of a **user** to a **train path**:

* 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 entitlement 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.[[8]](#footnote-8)

**Freight train path** means an entitlement of a **user** to use a **train path** on a **rail network** of an **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 Rail Operator’s control; or
		- is running on-time, regardless of previous delays.

**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.

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

**Passenger train path** means either:

* An entitlement of a **user** under an access agreement to use a **train path** on a **rail network** of an **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.

**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** on the **rail network** of the **access provider** and is only received where there are reasonable contractual commitments for its future use.

**Scheduled**, in respect of a **freight train path**, means the entitlement of a **user** to use a **train path** on a **rail network** of an **access provider** for **freight services** which has a fixed **line** entry and exit time.

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

**Train path** means having a right (whether arising under an agreement or otherwise) to operate **rolling stock** between locations on a **rail network** at particular times.

**Unhealthy**, means a **service** or **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 service** or **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[[9]](#footnote-9)**; and
* The relevant **train service** or **train** operates reasonably in accordance with the terms of the access agreement or **existing arrangement** or **dispute resolution decision** applicable to that **train** or **train service** 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-1)
2. Rail Management Act (1996) Section 38V, Authorised Version No. 068 incorporating amendments as at 22 November 2023. [↑](#footnote-ref-2)
3. Rail Management Act 1996 (Vic), S. 38F. [↑](#footnote-ref-3)
4. As defined in the Access Providers’ Network Operating Requirements. [↑](#footnote-ref-4)
5. TRANSPORT (COMPLIANCE AND MISCELLANEOUS) ACT 1983 - SECT 10 <https://www5.austlii.edu.au/au/legis/vic/consol_act/tama1983385/s10.html> [↑](#footnote-ref-5)
6. See Glossary for definition of path grades. [↑](#footnote-ref-6)
7. 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-7)
8. 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-8)
9. 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-9)