

[Redacted]
Balfour+Manson LLP

BY EMAIL ONLY TO:
[Redacted]

Dear [Redacted]

**Climate Change (Scotland) Act 2009 – Section 94A
Assessment of climate impact of Infrastructure Investment Plan
Judicial Review – response to letter before claim**

The issues raised in your letter of 5 September 2023 and in earlier correspondence from your clients have been carefully considered and the Scottish Ministers now accept that the documentation published to date falls short of the requirements of section 94A of the Climate Change (Scotland) Act 2009. Urgent work is underway on a remedy to ensure that the duty is discharged in full and as soon as possible.

I enclose a copy of a letter of today's date from the Scottish Ministers to Environmental Standards Scotland accepting the invitation to pursue informal resolution of these matters. You will note the intention to revert to ESS in substance on the extent of the duty to be discharged, on remedy, and on anticipated timescales under separate cover and that an additional period of at least 28 days in which to do so is proposed. The intention is also to revert to you in similar terms and within a similar timescale.

Judicial review proceedings would be premature while the resolution process with ESS is underway and where there is real scope for resolution without the need for litigation. Nothing in this letter is intended to restrict the Scottish Ministers' ability to advance any particular argument in the event that judicial review proceedings are raised and the Scottish Ministers reserve the right to do so.

I look forward to hearing from you.

Kind regards,

[Redacted]
Enc: Letter to ESS dated 14 September 2023