

**FAO: The Secretary of State for Transport**

C/o Government Legal Department  
Litigation Group  
102 Petty France  
Westminster  
London  
SW1H 9GL

Direct Dial: 020 3780 0474

Email:

Your Ref: Z2007535/NUT/JD3

Our Ref: RWS/JEK/00239263/2

Date: 9 December 2020

By email only:

**URGENT**  
**PRE-ACTION PROTOCOL LETTER FOR JUDICIAL REVIEW**

Dear Secretary of State,

**Re: National Policy Statement for National Network (the "NPS")**

1. We write in response to your letter of 3 December 2020 and enclosed submission to the Minister and Secretary of State.
2. It is deeply disappointing that you only provided that document the day before the expiry of the six-week time limit for challenging the decision not to review the NPS. Your late and incomplete disclosure of relevant information is contrary to the Pre-Action Protocol and has severely hampered our client in understanding the basis of your decision. As set out in the claim, this was procedurally unfair.
3. We note that the advice of your officials was that it was appropriate to review the NPS, but that you departed from that advice. Therefore, the submission with which you have now provided us is not evidence of the decision you took; rather, it is evidence of the recommendation which you chose to override. Nor does it answer the request for information in our letter of 27 November 2020, which was for

# Leigh Day

'contemporaneous evidence of that judgment [i.e. that a review of the NPS is not appropriate at this stage] having been taken by the Secretary of State'. We remain entirely unclear why or how you reached that judgement.

4. Therefore, we ask once again that you provide contemporaneous evidence of your decision, in the form of any minute or note documenting your reasons for, and any documents relied on as the basis or explanation for departing from the advice of your officials and/or determining that it was not appropriate to review the NPS at the time.
5. Additionally, in your reply of 3 December 2020, you misunderstand the points made in our previous letter in relation to Natural Capital and SEA. However, these matters now form part of a claim which our client was forced to issue on 4 December 2020 on a protective basis and there is little point in pursuing them through correspondence.
6. Given the urgency, please kindly respond by no later than **5pm on 10 December 2020**

Yours faithfully,

  
Leigh Day