

SCOTTISH HOSPITALS INQUIRY

CLOSING SUBMISSIONS

on behalf of the

SCOTTISH MINISTERS

in respect of

Hearings covering the period from the commencement of the Project to Financial Close

1. The Scottish Ministers are grateful for the opportunity of making these written closing submissions. They have carefully read and listened to the evidence submitted to the Inquiry during the hearing.
2. The Scottish Ministers are content with Counsel to the Inquiry's overall suggestion that no recommendation be made at this stage. The Scottish Ministers note that, subsequent to the RHCYP/DCN project, the body NHS Scotland Assure has been established. It is understood that the Inquiry is in the process of obtaining evidence from NHS Scotland Assure about its creation and functions. NHS Scotland Assure's role may be relevant to some of the issues identified in the closing submissions made by Counsel to the Inquiry. It is submitted that this is something most profitably addressed at the later hearing.
3. The Scottish Ministers are neutral as to the findings of fact proposed by Counsel to the Inquiry, subject to noting as to points of detail that:
 - 3.1. As to paragraph 289, the Scottish Ministers did not understand Mr Baxter to positively suggest in oral evidence (at Baxter, Transcript, page 156) that the Project had undergone an NDAP. Rather, Mr Baxter referred to his witness statement (2022 witness statement bundle, page 88, paragraph 13), in which he stated that he could not recall whether an NDAP review had been carried out, and noted (as he had in his statement) that the Outline Business Case (2022 Bundle 3, volume 2, page 685 at paragraph 1.70) could be read as suggesting that one had been carried out.
 - 3.2. As to paragraph 319, the reference to the attendance of Mr Baxter and Mr Reekie at 'many of the key meetings' may require to be differentiated as between them, bearing in mind the limit of what is said in e.g. Mr Baxter's witness statement of 4 April 2023 at paragraphs 35–43 (2023 bundle 13, page 307).
4. The Scottish Ministers make no comments on the closing submissions lodged by other core participants subject to noting the following point of detail arising from paragraph 10 of the closing statement of Mott MacDonald Limited ("MML"):
 - 4.1. MML cite, in part, a statement in CEL19 (2010) relative to use of ADB data. The full section of the relevant statement provides:

“Spaces designed using ADB data automatically comply with English planning guidance such as Health Building Notes (HBNs) and Health Technical Memoranda (HTMs) as ADB forms an integral part of the English guidance publication process. Whilst Scottish users can create their own project-specific briefs and designs using ADB’s extensive library of integrated graphics and text which includes room data sheets, room layout and departmental room schedules, extreme care should be taken to ensure that such data generated by the package are consistent and compliant with Scottish-specific guidance such as Scottish Health Planning Notes, Scottish Health Facilities Notes (SHFNs) and Scottish Health Technical Memoranda (SHTMs) as published by Health Facilities Scotland.”* The asterisked passage provides *“In the near future, all technical guidance will be available from the Space for health web resource. The Space for Health website will provide a single portal to the knowledge and expertise of the four UK health organisations. It will draw together the technical guidance published by HFS, the DoH and their equivalents in Northern Ireland and Wales. Further information is available from Health Facilities Scotland.”*

The Scottish Ministers accordingly submit that CEL19 (2010) advises taking “extreme care” to ensure that ADB data complies with the relevant Scottish guidance.

5. The Scottish Ministers are obliged to Counsel and Solicitors to the Inquiry for the collaborative and helpful approach taken to the gathering of evidence and preparation of witness statements for the purposes of this hearing. The Scottish Ministers look forward to assisting the Inquiry as its work continues.