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## **SUMMARY OF THE JOINT RELEVANT REPRESENTATION OF THE NUCLEAR DECOMMISSIONING AUTHORITY AND MAGNOX LIMITED**

### **1. INTRODUCTION**

1.1 The Nuclear Decommissioning Authority ("**NDA**") and Magnox Limited ("**Magnox**") produced a joint Relevant Representation which exceeded 1500 words. The NDA and Magnox have therefore produced a joint summary of their relevant representations.

1.2 It is to be noted that since the submission of the Relevant Representation, discussions between NDA and Magnox have commenced with NNB Generation Company (SZC) Limited (the "**Applicant**"). This document provides a summary of the Relevant Representation as made and any changes and updates since its submission will be reflected in the Written Representation, other written and oral submissions.

### **2. NATURE OF NDA AND MAGNOX LAND AND INTERESTS AFFECTED**

2.1 The NDA is a Category 1 person, and Magnox is a Category 1, Category 2 and Category 3 person in respect of a number of plots of land identified in the Applicant's Book of Reference, and in respect of which the Applicant is seeking the acquisition of all interests and rights and the extinguishment and discharge of all private rights. Both the NDA and Magnox are, therefore, "Affected Persons".

2.2 The NDA and Magnox note Article 26(2)(a) of the draft Development Consent Order ("**Draft DCO**") which precludes the undertaker from acquiring compulsorily any interests in any of the land plots detailed in column (2) of Part 1 of Schedule 15 of the Draft DCO, namely MDS/04/09, MDS/04/10, MDS/05/02, MDS/05/03, MDS/05/04, MDS/05/06, MDS/05/07, MDS/05/08, MDS/05/09, MDS/05/13, MDS/06/01 and MDS/06/02. Whilst the NDA and Magnox welcome Article 26(2)(a), its meaning is open to interpretation and the Explanatory Memorandum offers no assistance in respect of this part of the Article.

2.3 The NDA and Magnox similarly note Article 30 of the Draft DCO which, notwithstanding Article 26(2)(a), permits the undertaker to acquire compulsorily the existing rights, create and acquire new rights and impose such restrictive covenants as are described in the Book of Reference. However, neither NDA nor Magnox has had discussions with the Applicant regarding land plots, other than plot MDS/05/07, where the Applicant is seeking compulsory acquisition and/or the extinguishment of the NDA and/or Magnox's interests.

2.4 Prior to the application being submitted, the NDA and Magnox were made aware that the Applicant was interested in plot MDS/05/06, being a car park. However, since the Applicant was informed that Magnox requires this operational land until at least 2026, there has been no progress in discussions.

2.5 The NDA and Magnox note that the Applicant is seeking the following powers over land in respect of which the NDA and Magnox is a Category 1 or Category 2 person:

2.5.1 *Class 1 – acquisition of all freehold and leasehold interest;*

2.5.2 *Class 4 – override easements and other rights and extinguishment of all private rights.*

#### **Class 1**

2.6 Clarity is required as to why the Applicant may need to acquire the plots detailed in column (2) of Part 1 of Schedule 15 to the Draft DCO, given that Article 26(2) of the Draft DCO does not preclude acquisition of those plots by agreement and commercial discussions are only progressing regarding plot MDS/05/07.

2.7 The NDA and Magnox note that land plot MDS/02/28, in respect of which Magnox is a Category 1 person, is not detailed in column (2) of Part 1 of Schedule 15 to the Draft DCO. Whilst the interest

held by the NDA and Magnox is in the process of being surrendered, this process has not been completed yet. Accordingly, we reserve our position in respect of this plot.

- 2.8 The NDA and Magnox are also of the view that the protection afforded to the Sizewell B Nuclear Site in Article 26(2)(b) of the Draft DCO should be extended also to the Sizewell A Nuclear Site (e.g. all operational land). We would also comment that Article 30 should be made subject to Article 26.

#### **Class 4**

- 2.9 The NDA and Magnox note, in particular that certain of the NDA and/or Magnox land plots over which the Applicant is seeking Class 4 powers are situated within:

2.9.1 the boundary of the nuclear site licence for the Sizewell A Nuclear Site, for which Magnox has regulatory responsibility as the nuclear site licensee. The NDA and Magnox are of the view that the compulsory acquisition of any rights etc in such land by the Applicant would be wholly inconsistent with the purpose of the strict regulatory regime established by the nuclear site licence and the Nuclear Installations Act 1965, and that as such it would not be in the public interest; and

2.9.2 the designated boundary of the Sizewell A Nuclear Site (the principal nuclear site), for which the NDA has statutory responsibility for decommissioning and cleaning-up in accordance with the Energy Act 2004 and the Sizewell A Directions

being plots MDS/05/06 and MDS/05/07.

- 2.10 The NDA and Magnox therefore are of the view that land plots MDS/05/06 and MDS/05/07 should be excluded from the Book of Reference altogether. The NDA and Magnox are also concerned over the implications of these powers for those plots that abut the nuclear site licence area, being plots MDS/05/02 and MDS/05/13 and would welcome urgent clarification and understanding from the Applicant on need, purpose and impact.
- 2.11 Neither the NDA nor Magnox has seen any reporting or evidence that the Applicant has undertaken diligent enquiry as to why the relevant Class 4 powers are required, or indeed how the compulsory acquisition of Class 4 powers may affect more widely the ability of the NDA and Magnox to carry out their respective statutory functions and regulatory responsibilities, particularly in regard to the Nuclear Site Licence. As such, the NDA and Magnox are now having to carry out due diligence themselves based on the published application.

### **3. PROTECTIVE PROVISIONS AND SITE CO-OPERATION**

- 3.1 The NDA and Magnox are Category 1 and Category 2 persons in respect of a significant number of land plots identified in the Applicant's Book of Reference, including land plots where the NDA has statutory functions and Magnox has regulatory responsibilities. As such, the NDA and Magnox are firmly of the view that Protective Provisions must be included in the Draft DCO for the purposes of maintaining and protecting their respective abilities to carry out their statutory functions and regulatory responsibilities and to reflect agreement reached on the exercise or not of compulsory acquisition powers. In particular, the Protective Provisions will need to ensure that access is maintained at all times for all emergency, operational and user purposes and be in accordance with all safety and emergency response requirements in order to satisfy the demands placed upon the NDA and Magnox by the nuclear site licence and wider regulatory regime.
- 3.2 The NDA and Magnox acknowledge the potential complexities associated with three licensed nuclear installations being situated in close proximity, and indeed the potential for operations on one site to compromise the ability of the other sites to ensure compliance with regulatory requirements – notably in areas relating to site access, transport, construction activities, and environmental. In this context, the NDA and Magnox strongly emphasise the need to ensure that a Nuclear Site Licensees' Co-operation Agreement(s) is entered into between the NDA, Magnox, the Applicant and EDF NGL in order to ensure that there is in place a contractual framework which seeks to avoid conflict between the Sizewell A Nuclear Site, the Sizewell B Nuclear Site and the proposed Sizewell C Nuclear Generating Station, and to ensure that the relevant legal obligations of all parties are not

compromised. The proposed compulsory acquisition of any NDA / Magnox land interests or rights must not override the provisions of this Co-operation Agreement, and indeed any future acquisition (including voluntarily) of land or interests by the Applicant must be conditional upon compliance with it, and such principles should be reflected in the Protective Provisions.

4. **STATEMENT OF COMMON GROUND**

- 4.1 The NDA and Magnox will enter into discussions regarding the terms of a Statement of Common Ground with the Applicant.

**Summary of the Relevant Representation of the Nuclear Decommissioning Authority and Magnox Limited**

**Submitted to the Examining Authority on 12 May 2021**