



# The Sizewell C Project

## 9.11 Responses to the ExA's First Written Questions (ExQ1) Volume 3 - Appendices Part 4 of 7

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SIZEWELL C PROJECT -  
RESPONSES TO EXAMINING AUTHORITY'S  
WRITTEN QUESTIONS ISSUED ON 21<sup>ST</sup> APRIL 2021

**NOT PROTECTIVELY MARKED**

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## APPENDIX 14A DCO DRAFTING NOTE 1

**NOT PROTECTIVELY MARKED**





## APPENDIX 14A - DCO DRAFTING NOTE 1

### BENEFIT OF THE ORDER, TRANSFER OF THE BENEFIT OF THE ORDER, ARBITRATION, NGET, SUCCESSORS, LOCAL AUTHORITIES, TRANSFER OF DEEMED MARINE LICENCE

#### INCLUDING RESPONSES TO ExQ1: DCO 1.6, 1.10, 1.18, 1.26, 1.27, 1.34, 1.53, 1.156 and 1.163

## 1. RESPONSES TO THE EXA'S DCO QUESTIONS

- 1.1 This DCO drafting note responds to a number of the ExQ1 questions in the form of a wider explanation of drafting changes to Rev 4.0 of the dDCO which are relevant to these questions and to each other. The table below directs the ExA to paragraphs which are particularly relevant to each question, but reference should be made to the note as a whole to fully understand the context of the response:

ExQ1 Question	Relevant article/Schedule in Rev 3.0	Section or sub-section of this drafting note
DCO 1.10	Art 2	Section 4
DCO 1.18	Art 2(5)	Section 4
DCO 1.26	Art 9(6)	Section 3
DCO 1.27, 1.53	Art 9 Art 82	Section 3
DCO 1.163	Schedule 20. Pt 2, para 7A Art 8/9	Section 6
DCO 1.6, 1.34 and 1.156	Art 2	Section 5

## 2. BENEFIT OF THE ORDER

- 2.1 Rev 4.0 of dDCO provides as follows in relation to article 8 (Benefit of the Order):

### Benefit of this Order

8. (1) Subject to paragraph (2) and (3) and article 9 (consent to transfer benefit of this Order), the provisions of this Order have effect solely for the benefit of NNB Generation Company (SZC) Limited save for:

- (a) powers necessary or expedient for the construction, operation and maintenance of the Sizewell B relocation works 1 and the Sizewell B relocation works 2, for which the provisions of this Order have effect for the benefit of NNB Generation Company (SZC) Limited and EDF Nuclear Generation Limited;



(b) powers necessary or expedient for the construction, operation and maintenance of the rail works, for which the provisions of this Order have effect for the benefit of NNB Generation Company (SZC) Limited and Network Rail; and

(c) powers necessary or expedient for the construction, operation and maintenance of the grid works, for which the provisions of this Order have effect for the benefit of NNB Generation Company (SZC) Limited and National Grid.

(2) Paragraph (1) does not apply to the works for which consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

### **Powers to EDF Nuclear Generation Limited, Network Rail and National Grid (art 8(1))**

2.2 In the previous dDCO, provision was made for the benefit of the Order to be transferred to National Grid, Network Rail and EDF Nuclear Generation Limited (in the latter's capacity as a licensed nuclear operator) without the Secretary of State's consent (under article 9). However, on reflection it seems preferable to authorise these three parties to enjoy the benefit of the Order immediately upon grant, in respect of the specific works they will be carrying out and operating as part of their own retained infrastructure in future.

2.3 There is precedent for this approach in The Immingham Open Cycle Gas Turbine Order 2020 ('Immingham DCO'), where article 6 (Benefit of the Order) provides that: "*Subject to article 7 (consent to transfer benefit of this Order), the provisions of this Order have effect solely for the benefit of VPI Immingham B Limited **save for Work No. 5, for which the provisions of this Order have effect for the benefit of VPI Immingham B Limited and National Grid.***" The Explanatory Memorandum for the Immingham DCO states that: "*Article 6(1) (Benefit of the Order) makes clear that (subject to sub-paragraph (2)) it is only VPIB who may take the benefit of the Order. Article 6(2) provides that for Work No. 5 (the Electrical Connection) the benefit of the Order is for VPIB and National Grid (as **National Grid may potentially carry out all or part of those works**).* A similar approach regarding the benefit of parts of the Order being given to more than one person has been taken in various previous DCOs, including in Article 6 of the Meaford Gas Fired Generating Station Order 2016 and Article 6 of the Progress Power (Gas Fired Power Station) Order 2015." The Riverside Energy Park DCO also takes this approach, in granting the benefit of the DCO to the undertaker and London Power Networks in relation to certain works.

### **Other beneficiaries of the Order (art 8(1)(d))**

2.4 The new paragraph 8(2), is added to reflect the precedent set by numerous other DCOs, including the A1 Birtley to Coal House Improvement Scheme DCO 2021, the Southampton to London Pipeline DCO and The Great Yarmouth Third River Crossing DCI 2020, which state: "Paragraph (1) [restricting the benefit of the Order to the undertaker] does not apply to the works for which consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development." DCOs which include this type of provision justify its inclusion on the basis that in certain cases provision is made for third parties, and in particularly statutory undertakers, to undertake works to mitigate impacts.

## **3. TRANSFER OF THE BENEFIT**

3.1 Rev 4.0 of the dDCO provides as follows in relation to article 9 (Consent to transfer the benefit of the Order):

**Consent to transfer benefit of Order**



- 9.—(1) The undertaker may, with the written consent of the Secretary of State—
- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order (including the deemed marine licence, in whole or in part) and such related statutory rights as may be agreed between the undertaker and the transferee; or
  - (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order (including the deemed marine licence, in whole or in part) and such related statutory rights as may be so agreed.
- (2) The Secretary of State must consult the Marine Management Organisation before giving consent to the transfer or grant to another person of the whole of the benefit of the provisions of the deemed marine licence.
- (3) Where a transfer or grant has been made in accordance with this article, references in this Order to NNB Generation Company (SZC) Limited and to the undertaker, except in paragraph (4), (5) and (6) include references to the transferee or the lessee.
- (4) Where the undertaker has transferred any benefit ('transferor'), or for the duration of any period during which the transferor has granted any benefit, under paragraph (1) –
- (a) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations under this Order as would apply if those benefits or rights were exercised by the transferor; and
  - (b) save to the extent agreed by the Secretary of State, the Deed of Obligation completed pursuant to this Order, and any variations to it at the date of transfer or grant, shall be enforceable against the transferee or lessee as they would against the transferor.
- (5) The consent of the Secretary of State is required for the exercise of powers under paragraph (1) except where—
- (a) the transferee or lessee is the holder of a licence under section 3 Nuclear Installations Act 1965; or
  - (b) the time limits for claims for compensation in respect of the acquisition of land or effects upon land under this Order have elapsed and—
    - (i) no such claims have been made,
    - (ii) any such claim has been made and has been compromised or withdrawn,
    - (iii) compensation has been paid in final settlement of any such claim,
    - (iv) payment of compensation into court has taken place in lieu of settlement of any such claim, or
    - (v) it has been determined by a tribunal or court of competent jurisdiction in respect of any such claim that no compensation shall be payable.
- (6) Where the consent of the Secretary of State is not required under paragraph (5), the transferor must notify the Secretary of State in writing before transferring or granting all or any part of the benefit of the provisions of this Order and such related statutory rights referred to in paragraph (1).
- (7) The notification referred to in paragraph (6) must state—
- (a) the name and contact details of the person to whom the benefit of the powers will be transferred or granted;
  - (b) subject to paragraph (8), the date on which the transfer will take effect;
  - (c) the powers to be transferred or granted;
  - (d) pursuant to paragraph (3), the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and
  - (e) where relevant, a plan showing the works or areas to which the transfer or grant relates.
- (8) The date specified under paragraph (7)(b) must not be earlier than the expiry of five working days from the date of the receipt of the notice.



(9) The notice given under paragraph (6) must be signed by the transferor and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

### Responses to ExQ1 DCO 1.27 and 1.26

- 3.2 The revised drafting reflects a number of recently made DCOs, which have contained largely the same or similar provisions such as The Riverside Energy Park Order 2020, The Immingham Open Cycle Gas Turbine Order 2020 and The Hornsea Three Offshore Wind Farm Order 2020. We respond directly below to the ExA's questions DCO 1.27 (i) to (viii) and DCO 1.26. The ExA references are to the Rev 3.0 dDCO numbering. Our responses refer to the numbering in the Rev 4.0 dDCO as set out above.
- 3.3 **ExQ1 DCO 1.27 (i):** 9(1) Is it appropriate to transfer the CA powers in this DCO? The Applicant is required to demonstrate adequate resources to pay compensation. A transferee may not be have the same resources and the article does not expressly require that they are shown to exist.
- 3.4 **Applicant response:** The Rev 4.0 dDCO requires that the Secretary of State's consent is obtained for the transfer or grant of the DCO powers to any person, save where the new entity in question has a nuclear site licence or where there are no further liabilities in relation to compulsory acquisition. The justification for this approach follows that set out in the explanatory memorandums of a number of DCOs which contain these provisions: namely that the transferee or lessee will either be of a similar regulatory standing to the Applicant (and therefore have adequate resources to meet any liability for compensation which may exist), or the issue of liability for compensation will no longer be relevant.
- 3.5 **ExQ1 DCO 1.27 (ii):** 9(1)(b) Should the CA powers be lettable? What would be the lessee's title to land compulsorily acquired and to whom would such land be transferred on CA? Does CA by a lessee raise any difficulties?
- 3.6 **Applicant response:** We are not aware of any other DCOs which prevent the exercise of compulsory acquisition powers to lessees (ie persons to whom the benefits of the DCO are transferred temporarily), but are open to considering such precedents if the ExA wishes to point us to them. We do not envisage circumstances where the undertaker would wish to transfer such powers to a lessee, but in the event that the undertaker did wish to do so, the safeguards outlined in our response to DCO 1.27(i) above would apply.
- 3.7 **ExQ1 DCO 1.27 (iii):** 9(1) and (2) What would be the criteria for the SoS to decide whether or not to consent?
- 3.8 **Applicant response:** We are not aware that any DCOs made to date have specified the criteria for the Secretary of State's decision to transfer or grant the benefit of a DCO to another party, or to refuse to do so. In our view it is appropriate that the Secretary of State has a wide and unfettered discretion to take into account all and any material considerations at the time, subject of course to the common law requirements of legal rationality. To seek to prescribe these now is not necessary, nor do we anticipate it would be welcomed by the Secretary of State. Separately, we have removed the requirement for the Secretary of State to determine an application (formerly art 9(2)), as we recognise that



this has not been accepted in DCOs made to date and in particular was rejected in The Hornsea Three Offshore Wind Farm Order 2020.

- 3.9 **ExQ1 DCO 1.27 (iv):** Art 9(4). Is it appropriate for decisions of the Secretary of State on what is largely a regulatory issue to be subject to arbitration?
- 3.10 **ExQ1 DCO 1.53:** Art 82(2): Is it appropriate for decisions of the Secretary of State to be subject to arbitration? The Hornsea Three DCO includes an explicit provision that decisions of the Secretary of State and MMO are not to be subject to arbitration (see Art 37(2)).
- 3.11 A number of granted DCOs contain arbitration articles which do not exclude the ability of the undertaker to use arbitration to settle disputes with the Secretary of State under the Order – in other words they are silent on this matter and therefore can be read as allowing such arbitration to be used in disputes with the Secretary of State in principle. However, the applicant for The Hornsea Three Offshore Wind Farm Order 2020 expressly requested the right to use arbitration to settle disputes in relation to transferring the benefit of the Order and this was expressly excluded in the arbitration article of the DCO as granted (art 37 of that Order). The same exclusion was made in the Norfolk Vanguard Offshore Wind Farm Order 2020. We are content to exclude the ability to arbitrate disputes with the Secretary of State if this is the ExA's preference. We have revised article 82 in Rev 4.0 accordingly as set out below:

**Arbitration**

82 (1) Any difference under any provision of this Order, unless otherwise provided for in this Order or unless otherwise agreed between the parties, is to be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

(2) This article must not apply to the provisions of the 1847 Act incorporated in this Order by article 46 (Incorporation of the 1847 Act) or to Trinity House in the exercise of its statutory functions.

(3) This article is without prejudice to article 74 (Saving for Trinity House).

(6) Any matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration.

- 3.12 **ExQ1 DCO 1.27 (v):** Art 9(6)(a). It is clear that the alienation provisions of Art 9 allow alienation of part of the land or part of the benefits. It would appear that Art 9(6)(a) attempts to limit the burdens transferred to those “imposed by virtue of the provisions to which the benefit relates”. However, it is unusual for burdens to be divided up across the land or benefits. And burdens may be imposed on the whole development or project. Please will the Applicant amend the article so as to ensure that burdens, whether they relate to the whole benefit of the order or only the benefit transferred, bind the transferee or lessee as the case may be?
- 3.13 **Applicant response:** The Rev 3.0 art 9(6)(a) has been deleted. While that drafting is included in a number of DCOs, we are unclear what exactly it adds or is intended to add to the simpler formulation of words (set out in the Model Provisions<sup>1</sup> and included in a number of DCOs), which we have now included. The new drafting (art 9(4)(a)) simply states that: “(a) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations under this Order as would apply if those benefits or rights were exercised by the

<sup>1</sup> The Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 art 5(3)



undertaker". In other words, when exercising any powers under the Order, it is always necessary to comply with any burdens which relate to the exercise of that power.

- 3.14 **ExQ1 DCO 1.27 (vi):** Art 9(6). Para (b) – how can “benefits” be enforced “against” the undertaker (original or otherwise). What is the Applicant’s intention by this provision?
- 3.15 **Applicant response:** We have now deleted this provision. The drafting of art 9(4)(a) in Rev 4.0 of the dDCO is sufficient in making clear that any transferee or lessee exercising the powers of the DCO must comply with the related burdens and liabilities. Therefore, enforcement action (for breach of the terms of the DCO) will only ever be capable of being taken against NNB Generation Company (SZC) Limited if it is exercising the DCO powers without complying with the burdens relating to the exercise of that power. If another person (a transferee or lessee) is exercising the DCO powers that party and that party alone will be liable to enforcement action if they fail to comply with the related burdens.
- 3.16 **ExQ1 DCO 1.27 (vii):** Art 9(6). If the intent is to release the transferring undertaker from liability, is it really appropriate to release the undertaker where only a lease is created? The lessor undertaker should surely remain liable and take whatever indemnities are appropriate from the lessee. What would the position be at the end of the lease, whether it runs its full term (and the term is not known at this point in time) or is terminated for breach?
- 3.17 **Applicant's response:** As explained above, the appropriate position is that any transferee or grantee is responsible for compliance with the terms of the DCO as applicable to exercise of the powers they are authorised by the transfer or grant to exercise, in just the same way as NNB Generation Company (SZC) Limited is. This is achieved in a simple way by the revised wording of art 9(4)(a).
- 3.18 **ExQ1 DCO 1.27 (viii):** Art 9(6)(c). It is good to make it clear that development consent obligations are intended to bind the transferee / lessee. Please will the Applicant state whether there are any concerns that they would not do so? Is this paragraph seeking to cut down the provisions of s.106 TCPA 1990 which make obligations bind persons deriving title? What would be the position if Art 9(8) is not complied with? Please will the Applicant amend the article so as to make it clear that in such a case the transfer or lease would be invalid?
- 3.19 **Applicant's response:** Please see the Applicant's 'Explanation of the Applicant's Evolved Approach to Contractual Commitments to Mitigation' (**Appendix 26A**) which responds to some of the issues in ExA Questions SA.1 in relation to the Applicant's response to securing contractual commitments to mitigation via a Deed of Obligation. It also sets out how art 9 works to ensure those commitments 'run with the undertaking'.
- 3.20 **ExQ1 DCO 1.26:** The ExA has asked about the effect of para 5(2) of Schedule 24, which states: "For the purposes only of section 106(1) of the 1990 Act (Planning obligations), the undertaker is deemed to be a person interested in the Order land or any part of it and, for the avoidance of doubt, section 106(3)(a) of that Act includes any transferee under article 9 (Consent to transfer benefit of Order) of the Order." The ExA has questioned why this provision is necessary, and suggested that the question of whether a person is interested in the land should be a question of fact rather than something to be deemed. The ExA has also stated that the s106 must bind the land and all persons deriving title from the original covenantor.
- 3.21 **Applicant response:** This provision has now been deleted as it is not needed in light of our new approach to committing the undertaker to obligations as set out in the Applicant's



'Explanation of the Applicant's Evolving Approach to Contractual Commitments to Mitigation' (**Appendix 26A**).

#### 4. DEFINITION OF NGET AND 'SUCCESSORS' TO STATUTORY BODIES

##### **ExQ1 DCO 1.10 and DCO 1.18**

- 4.1 In Rev 3.0 of the dDCO, 'National Grid' was defined as meaning: "*National Grid Electricity Transmission plc (Company No. 02366977) and its successors in title, assigns and any other person exercising its powers or performing the same functions*". This definition replicated the definition of the final version of the Wylfa DCO (Rev 6.0).
- 4.2 In DCO.1.10, the ExA has questioned whether 'National Grid' should be more tightly defined by reference to the particular statutory functions of relevance, bearing in mind the possibility that National Grid could be broken up in future in some way, with its different functions split. The ExA has also queried the use of the phrase 'or its statutory successors' in art 9(7) (Consent to transfer benefit of the Order), given reference to 'successors' in the definition of National Grid.
- 4.3 This issue is linked to the EXA's question DCO 1.18 which queries art 2(5). Art 2(5) in Rev 3.0 of the dDCO replicated the equivalent provision in the Wylfa DCO, and read: "*References to statutory bodies includes that body's successor bodies from time to time that have jurisdiction over the authorised development.*" This wording was also used in the Southampton to London Pipeline DCO made in 2020.
- 4.4 We have reviewed a number of recently made DCOs, to see how they have defined National Grid, and how they have dealt with the issue of 'successors' in connection with National Grid and more generally. Annex A to this drafting note shows in tabular form the findings of that review. It is clear that there are a variety of different approaches have been found acceptable by the Secretary of State in making recent DCOs.
- 4.5 We have therefore proposed in Rev 4.0 a definition of 'National Grid' in article 2 (Interpretation) and in the protective provision benefitting National Grid, as follows, without reference to successors:

'National Grid' means National Grid Electricity Transmission PLC (Company No. 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH, being a licence holder within the meaning of Part 1 of the Electricity Act 1989;

- 4.6 To address the successor point, we propose in Rev 4.0 a slightly revised version of art 2(5), reflecting the precedent set by the Riverside Energy Park DCO, as set out below:

2(5) References to any statutory body include any body's successor in respect of functions which are relevant to this Order

- 4.7 While there is a need for statutory drafting to be clear, it cannot cater specifically for all eventualities and it would not be helpful to attempt to do so (for example by seeking to anticipate future potential division of functions of an entity such as NGET). We believe the approach in Rev 4.0 is sufficiently clear that it is unlikely to lead to future uncertainties in



the exercise of the powers, and that even if such a challenge were brought the Courts would have no difficulty in applying the appropriate meaning.

- 4.8 We have applied the same approach to references to Network Rail and EDF Nuclear Generation Limited, which are defined without reference to successors in art 2 (Interpretation) in Rev 4.0:

"EDF Nuclear Generation Limited" means EDF Nuclear Generation Limited (Company number 03076445), being the holder of a nuclear licence under section 3 of the Nuclear Installation Act 1965;

"Network Rail" means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;<sup>2</sup>

## 5. DEFINITION OF THE LOCAL AUTHORITIES

### *ExQ1 DCO 1.6, DCO 1.34 and DCO 1.156*

- 5.1 In DCO 1.6, 1.34 and 1.156, the ExA raises questions in relation to the use of the terms 'East Suffolk Council' and 'Suffolk County Council'. The ExA queries whether it might be preferable to use the terms 'local planning authority' and 'local highway authority', and any other public functions where relevant, rather than to name the particular authorities. The ExA's concern is that there may be a local government re-organisation and that in such circumstances it will be important to know which successor body should be deemed to have the powers and rights referred to in the DCO.
- 5.2 It was the preference of East Suffolk County Council and Suffolk County Council] to be named in the DCO<sup>3</sup>], and we are content with this approach. To address the ExA's concerns we have added the following interpretive provision to art 2, as art 2(5A) in Rev 4.0:

2(5A) Unless otherwise stated, references to East Suffolk Council refer to this body in its capacity as a local planning authority, and references to Suffolk County Council refer to this body in its capacity as a local highway authority.

- 5.3 There are a handful of requirements in Schedule 2 where Suffolk County Council is tasked with approving requirements in its capacity as an archaeological authority, drainage

<sup>2</sup> Definition replicated from Network Rail protective provisions in Rev 3.0 of SZC DCO

<sup>3</sup> The Councils to confirm





authority or fire and rescue authority (rather than as highway authority). These capacities are all now referred to expressly in the relevant requirements.

- 5.4 The art 2(5A) provision, combined with the revised version of art 2(5) set out in this note, work to ensure that in the event of a local government re-organisation, it would be clear who the successor to the named councils would be.
- 5.5 For consistency, the term 'East Suffolk Council' replaces the term 'local planning authority' in Rev 4.0 dDCO in art 5.
- 5.6 However, Rev 4.0 dDCO retains a definition of 'local planning authority', which has been revised to read:

"local planning authority" has the meaning given in the 1990 Act;

- 5.7 The term "local planning authority" is used in Rev 4.0 dDCO in art 2(5), art 76 (Removal of human remains), art 86 (Marine enforcement authority) and Schedule 14 (Miscellaneous Controls) paragraph 6 (Control of Pollution Act 1974) only.

## 6. **TRANSFER OF DEEMED MARINE LICENCE**

### ***ExQ1 DCO 1.163***

- 6.1 Paragraphs 3 and 7A of the deemed marine licence in Rev 3.0 of the dDCO were identical. We have therefore deleted 7A in Rev 4.0. In DCO 1.106 and 1.163, the ExA asks in relation to both paragraphs whether it might be preferable to deal with the transfer of the deemed marine licence solely via the article in the dDCO which authorises the benefit of the DCO to be transferred. We would be content with this approach. Article 9(1) (Consent to transfer the Benefit of the Order) already makes provision for transfer/grant of the deemed marine licence in whole or part to another party, with the Secretary of State's consent. There is also a requirement for the MMO to be consulted before any such transfer (art 9(2)). We have therefore amended paragraph 3 to remove reference to s72(7) of the 2009 Act (which deals with transfers).



ANNEX A

Definition of 'National Grid'	Definition of 'successors' in the Interpretation article?
<b>Norfolk Vanguard (2020)</b>	
<p><b>Interpretation (Art 2)</b></p> <p>'National Grid' means National Grid Electricity Transmission plc</p> <p><b>Protective Provisions for National Grid as electricity and gas undertaker</b></p> <p>"National Grid" means, as appropriate—</p> <p>(a) National Grid Electricity Transmission PLC (Company No. 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH and any successor to their licence under Part 1 of the Electricity Act 1989; and</p> <p>(b) National Grid Gas PLC (Company No. 200600) whose registered office is at 1-3 Strand, London, WC2N 5EH and any successor to their licence under Part 1 of the Gas Act 1986</p> <p><u>or their successor company(ies).</u></p>	No
<b>Hornsea Three (2020)</b>	
<p><b>Protective provisions for National Grid as electricity and gas undertaker</b></p> <p>"National Grid" means, as appropriate—</p> <p>(a) National Grid Electricity Transmission PLC (Company No. 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH and any successor to their licence under Part 1 of the Electricity Act 1989; and</p> <p>(b) National Grid Gas PLC (Company No. 200600) whose registered office is at 1-3 Strand, London, WC2N 5EH and any successor to their licence under Part 1 of the Gas Act 1986</p> <p><u>or their successor company(ies) as the context requires</u></p>	No
<b>Immingham OCGT</b>	
<p><b>Interpretation (Art 2)</b></p> <p>"National Grid" means National Grid Electricity Transmission PLC (Company No. 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH and/or National Grid Gas PLC (Company No. 200600) whose registered office is at 1-3 Strand, London, WC2N 5EH as the context requires</p> <p><b>Protective provisions for National Grid as electricity and gas undertaker</b></p> <p>Same as above</p>	No
<b>The Southampton to London Pipeline (2020)</b>	
No	Art 2(5) References to any statutory body includes that body's successor bodies from time to time that have jurisdiction over the development
<b>Riverside Energy Park</b>	
<p><b>Protective provisions for National Grid as electricity undertaker</b></p> <p>"National Grid" means National Grid Electricity Transmission PLC (Company No. 2366977) whose registered office is at 1-3 Strand, London, WC2N 5EH and its successors and assignees;</p>	Art 2(8) References to any statutory body include any body's successor in respect of functions which are relevant to this Order



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## APPENDIX 14B DCO DRAFTING NOTE 2

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## APPENDIX 14B – DCO DRAFTING NOTE 2

### RESPONSE TO ExQ1 DCO 1.69

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1. **IS IT JUSTIFIABLE TO HAVE SUCH EXTENSIVE POWERS IN RELATION TO THE OPERATION AND MAINTENANCE OF THE PROPOSED DEVELOPMENT?**
- 1.1 The DCO should so far as possible provide a single authorisation for all of the development (including associated development) that is likely to be necessary to construct, operate and maintain the NSIP and associated development throughout its operational lifetime.
- 1.2 Sch. 1 Pt 2 provides a list of associated development works which are ancillary to the numbered works packages in Sch. 1 Pt 1.
- 1.3 The intention behind Sch. 1 Pt 2 is to avoid what would otherwise be the repetition of a long list of minor associated development works within each of the numbered works packages in Sch. 1 Pt 1. In the absence of this list, it would be necessary to identify all such minor associated development works under each works package, an approach which would result in a significant amount of detail having to be added to Pt. 1.
- 1.4 Where, for example, it is necessary for the Undertaker to establish a temporary construction area and compound at one of the Works sites, and this is not specifically identified under the relevant works package, such development is authorised by Pt. 2 para. (e). It is clearly preferable for such minor associated development to be listed once in relation to all works packages rather than having to be separately listed for each work package in Pt 1. Similarly, if and when it is necessary for the Undertaker to relocate road traffic signs on the Sizewell Link Road after construction, this is authorised by Pt. 2 para. (k)(iv). As a result, it is not necessary for this to be included as a separate numbered item in Pt 1 in addition to Work 12A which authorises works associated with the construction of that road. The same position would apply for any other new road to be constructed pursuant to Pt. 1.
- 1.5 The scope of the works authorised by means of their inclusion in Pt. 2 is subject to a number of important limitations, in common with the equivalent provisions in other made DCOs (see further below). For example, the nature of the works described in Sch. 1 Pt 2 is inherently constrained by the introductory words “*in connection with* [list of numbered works from Sch. 1 Pt 1], *to the extent they do not otherwise form part of any such work ...*”. In other words, the development described is limited to ancillary development carried out “*in connection with*” the numbered works described in Sch. 1 Pt 1, and is not a list of freestanding developments.
- 1.6 The final item in the list in Sch. 1 Pt 2 (paragraph (p) in the dDCO) is a “catch all”. Whilst the Applicant has sought to identify all works likely to be required and to list them in items (a) to (o), it is conceivable that for a project of this size, complexity and longevity not all minor ancillary works will have been anticipated, identified and described at this stage. The scope of the ancillary works authorised by paragraph (p) is heavily constrained by the inclusion of the words “*which do not give rise to any materially new or materially different environmental effects from those assessed*”, and the fact that they must be contained within the Order limits and carried out in compliance with the full suite of Requirements in Sch. 2.
- 1.7 This approach to drafting the authorisation for minor associated development works, and the scope and content of the list of works, have been reflected in a number of other made DCOs. The extensive precedent for the inclusion of such a provision reflects a longstanding recognition of both the practical necessity for the DCO to authorise such ancillary works and



the benefits of dealing with this via a single generic list rather than expanding the description of each work package in Pt 1. For example:

- 1.7.1 The Thames Tideway Tunnel DCO has an equivalent list of associated development at the end of Sch.1 Pt 1, supplemented in that case by a further short list of “*Ancillary Development*” in Sch. 1 Pt2; and
- 1.7.2 The Silvertown Tunnel, A1 Birtley to Coal House, A303 Sparkford to Ilchester Dualling, VPI Immingham Open Cycle Gas Turbine and Riverside Energy Park DCOs all have equivalent lists of associated development at the end of Sch.1.
- 1.8 In addition, it is notable that the draft DCO for the Wylfa new nuclear power station project included a very similar list at the end of Sch. 1 under the heading “*Other associated development*”. There was discussion of the need for, and appropriateness of, this provision during the examination into that project. That discussion focussed on the final paragraph in the list (see EXAR paras. 21.8.58 to 21.8.72), which was included within the ExA’s dDCO subject to some amendments. The main elements in the list were, however, included without any material amendment (see Wylfa dDCO pp. 54-55).
- 1.9 The Sizewell C project is a large and complex NSIP, and the use of this approach to authorising such minor associated development works whilst avoiding unnecessary length, duplication and complexity in the description of development is particularly important and appropriate in this case.
- 1.10 For those reasons the inclusion of the list of works in Sch. 1 Pt 2 is both fully justified and appropriate. The alternative would be substantially to expand the description of the works packages in Sch. 1 Pt1, which would have the same legal effect but make the DCO unnecessarily lengthy, repetitious and complicated.

## 2. IS THE LOCATION OF THE WORKS LIMITED TO THE ORDER LIMITS?

- 2.1 Art. 3 grants development consent for the “authorised development”, to be carried out “within the lines or situations shown on the Works Plans”.
- 2.2 Art. 1 defines the “*Order limits*” as meaning the limits shown on the Works Plans within which the authorised development may be carried out.
- 2.3 Art. 1 defines “*authorised development*” as meaning, inter alia, the development and associated development described in Sch. 1. It therefore embraces the associated development works described in Sch. 1 Pt 2.
- 2.4 Furthermore, the introductory words to Sch. 1 Pt 2 make clear that the development described (and hence authorised) is “*within the Order limits*”.
- 2.5 The combined effect of those provisions is that it is clear the development authorised by Sch. 1 Pt 2 may only be carried out within the Order limits.

## 3. WHAT WILL BE THE CONSTRAINTS IN THE DCO IF MADE ON THE DEVELOPMENT THEY PERMIT?

- 3.1 As explained above, the nature of the works described in Sch. 1 Pt 2 is inherently constrained by the introductory words which mean these works are only authorised as ancillary development in connection with the numbered works packages described in Sch. 1 Pt 1.
- 3.2 The works may only be carried out within the Order limits.
- 3.3 In addition, as with all other elements of the “*authorised development*” as defined (including the works listed in the numbered works packages in Sch. 1 Pt 1 to which these works are ancillary), Art. 3 makes the works described in Pt 2 subject to the provisions of the DCO and Schedule 2 (Requirements). For example:



- 3.3.1 Works within the list associated with the construction of one of the numbered Works packages in Sch. 1 Pt 1 must be carried out in general accordance with the CoCP (Requirement 2).
- 3.3.2 Works to provide or relocate a surface drainage system (Pt 2 paragraph (b)) must be undertaken so as to accord with Requirement 5.
- 3.3.3 Works within the list associated with the construction of one of the numbered Works packages in Sch. 1 Pt 1 must be constructed and maintained within the vertical limits of deviation set out in article 4.
4. **THE EM PARA 10.4 SAYS THEY ARE “MINOR WORKS”. WHERE IS SUCH A LIMIT SET OUT IN THE DDCO?**
- 4.1 As explained above, this is ancillary development in connection with the numbered works packages described in Sch. 1 Pt 1. The works that are authorised as a result are therefore inherently ancillary in nature and properly characterised in the EM as “minor works”.
- 4.2 This limitation derives from the description of the development itself within Pt 2 and no additional limitation is necessary or appropriate.
5. **PLEASE WILL THE APPLICANT SUPPLY A RECONCILIATION OF THE WORKS DESCRIBED IN SCH 1 PT2 WITH THE DEVELOPMENT ASSESSED IN THE ES?**
- 5.1 The EIA was undertaken by reference to the development as described in the numbered works packages in Sch. 1 Pt 1 of the dDCO, recognising that the development would necessarily also include a range of minor ancillary works associated with each of those works packages. That is reflected in the overview description of development in Chapter 2 of the ES, which explains at paragraph 2.3.5 that:
- “There are also minor works that are common to a number of work packages, under the heading “Other Associated Development”. These include works such as landscaping and drainage, establishment of construction compounds, vegetation clearance, works to trees, shrubs and hedges and utilities installation.”*
- 5.2 The fact that such ancillary minor works would also be required in association with the individually numbered works packages was therefore understood and taken into account by those carrying out the EIA. By way of some examples, these minor works, as relevant to each construction site, are referenced within the following paragraphs of the ES (but not limited to the below references):
- 5.2.1 Description of construction of the main development site - Volume 3, Appendix 2.2.B of the ES Addendum, paragraphs 3.4.164 to 3.4.170 [[AS-202](#)];
- 5.2.2 Description of development at the northern park and ride - Volume 3, Appendix 3.2.A of the ES Addendum, paragraph 2.4.6 [[AS-240](#)];
- 5.2.3 Description of development at the southern park and ride - Volume 3, Appendix 4.2.A of the ES Addendum, paragraph 2.4.5 [[AS-242](#)];
- 5.2.4 Description of development at two village bypass – Volume 3, Appendix 5.2.A of the ES Addendum, paragraph 2.4.6 [[PDB-003](#)];
- 5.2.5 Description of development at Sizewell link road – Volume 3, Appendix 6.2.A of the ES Addendum, paragraph 2.4.6 [[AS-248](#)];
- 5.2.6 Description of development at Yoxford roundabout and other highways improvements – Volume 7, Chapter 2 of the ES, paragraph 2.4.26 [[APP-480](#)];
- 5.2.7 Description of development at the freight management facility – Volume 8, Chapter 2 of the ES, paragraph 2.4.5 [[APP-511](#)]; and



- 5.2.8 Description of development in respect of the proposals relating to rail – Volume 3, Appendix 7.2.A of the ES Addendum, paragraph 2.4.41 [\[AS-256\]](#).
- 5.3 For the purposes of EIA the implications of such ancillary works are no different depending on whether they are all listed together at the end of Sch. 1 (either as a part 2 or as the last provision in a single part) as is conventional or (as a possible but less satisfactory alternative) added to each of the Works packages in Pt 1.
- 5.4 The final 'catch-all' paragraph in Pt 2 is different, in that for the reasons explained above it covers such other works as may be necessary or expedient without specifying what those works may be. For that reason it is subject to the additional constraint that it only authorises works "*which do not give rise to any materially new or materially different environmental effects from those assessed*". It is not necessary to include such an additional constraint to the other items in Pt 2 any more than it would be necessary to do so in relation to the numbered Works packages in Pt 1. In both cases the development described reflects that which has been assessed in the EIA process, and thus the alignment between the assessment and the development authorised by the dDCO is appropriately secured in the usual way through provisions ensuring adherence to the parameter plans, works plans, limits of deviation and Requirements.



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## APPENDIX 14C DCO DRAFTING NOTE 3

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## APPENDIX 14C - DCO DRAFTING NOTE 3

### SIZEWELL B RELOCATED FACILITIES AND ARTICLE 5

#### INCLUDING RESPONSES TO ExQ1: DCO 1.22, 1.23, 1.25, 1.140 and 1.142

#### 1. ARTICLE 5 – REV 4.0 OF THE DRAFT DCO

- 1.1 The Rev 4.0 version of article 5 of the dDCO is set out below. The minor changes proposed from Rev 3.0 are shown in track changes. The first change corrects an error in Rev 3.0, which would have restricted the carrying out of any 'new Sizewell B relocated facilities permission' (defined by the dDCO to refer to planning permissions granted under the Town and Country Planning Act 1990). The purpose of article 5(2) is simply to ensure that the local planning authority is clear which version of the Sizewell B relocated facilities works is being carried out under the DCO (Work No 1D or Work No. 1E), therefore reference to any other TCPA permission is erroneous.
- 1.2 The second change below responds to question DCO 1.142(ii), which is explained later in this note.

#### **Effect of the Order on the Sizewell B relocated facilities permissions**

5.—(1) If the undertaker serves a notice on the local planning authority that it intends to commence Work No. 1D or Work No. 1E —

- (a) the undertaker must cease to carry out development under the Sizewell B relocated facilities permission 1, Sizewell B relocated facilities permission 2 and any new Sizewell B relocated facilities permission; and
- (b) the conditions of the Sizewell B relocated facilities permission 1, Sizewell B relocated facilities permission 2 and any new Sizewell B relocated facilities permission will be unenforceable, except in respect of any breach that occurred prior to the undertaker serving notice under this paragraph.

(2) The undertaker may not carry out Work No. 1D, ~~or~~ Work No. 1E ~~or any new Sizewell B relocated facilities permission~~ under this Order until notice has been served under paragraph (1) but nothing in this Order shall prevent the undertaker from commencing Work No. 1E following commencement of Work No. 1D provided that notice is served on the local planning authority to that effect.

(3) Where the undertaker serves notice on the local planning authority that it is commencing Work No. 1E it shall not thereafter carry out Work No. 1D and, in the event that the undertaker has ~~commenced~~ ~~implemented~~ Work No. 1D(d) or (e), the undertaker may not implement Work 1E(d).

(4) Notwithstanding paragraph (2), the undertaker may exercise any other powers under this Order in respect of any part of the authorised development prior to or following service of notice under paragraph (1).

(5) Without prejudice to the generality of paragraph (4), the undertaker may discharge any requirement in Schedule 2 of this Order at any time prior to or following the service of notice under paragraph (1).

(6) Where details, plans works or any other matters have been approved or agreed by the local planning authority pursuant to a condition of the Sizewell B relocated facilities permission 1 in column (1) of Schedule 8 Part 1 (Deemed approval of requirements relating to Sizewell B relocation permission 1) prior to the date on which the undertaker serves notice under paragraph



(1) the corresponding requirement to that condition in column (2) of Schedule 8 Part 1 (Deemed approval of requirements relating to Sizewell B relocated facilities permission 1) will be deemed to have been approved insofar as it relates to Work No.1D.

(7) Where details, plans works or any other matters have been approved or agreed by the local planning authority pursuant to a condition of the Sizewell B relocated facilities permission 2 in column (1) of Schedule 8 Part 2 (Deemed approval of requirements relating to Sizewell B relocation permission 2) prior to the date on which the undertaker serves notice under paragraph (1) the corresponding requirement to that condition in column (2) of Schedule 8 Part 2 (Deemed approval of requirements relating to Sizewell B relocated facilities permission 2) will be deemed to have been approved insofar as it relates to Work No.1E

(8) Where details, plans (except for those plans which are also Approved Plans relating to Work No. 1D or Work No. 1E) works or any other matters have been imposed as a condition, or approved or agreed pursuant to a condition, of any new Sizewell B relocated facilities permission prior to the date on which the undertaker serves notice under paragraph (1), the local planning authority and the undertaker will agree in writing which details, documents, plans, works or other matters under the new Sizewell B relocated facilities permission will be deemed to have been discharged, approved, agreed, obtained or undertaken for the purposes of the requirement relating to Work No. 1D or Work No. 1E (as the case may be).

## 2. RESPONSES TO THE EXA'S DCO QUESTIONS

- 2.1 The ExA's DCO questions relevant to the Sizewell B relocated facilities and article 5 and article 2 are set out and responded to below.
- 2.2 **ExA DCO 1.22 (Art 5(1)(b)):** Is limiting the exception to prior breaches appropriate? For example, are there any ongoing restoration or maintenance conditions in the Sizewell B relocated facilities permission which should continue to be enforceable?
- 2.3 **Applicant's response:** The table at Annex A of this note sets out the ongoing restoration or maintenance conditions in the Sizewell B relocated facilities permission, and in each case how these are dealt with in the equivalent DCO requirements, which will apply when the Sizewell B relocated facilities works are carried out under the DCO as Work No 1D or 1E. The substitution of equivalent requirements for conditions dealing with ongoing matters such as restoration and maintenance means that the exception is appropriately limited to prior breaches of condition.
- 2.4 **ExA DCO 1.23 (Art 5(3)):** Is this inserted simply for the avoidance of doubt or is there a specific concern that Art 5 restricts any other powers in the DCO?
- 2.5 **Applicant's response:** There is no concern that article 5 restricts other powers in the DCO. The Applicant's preference is to carry out Work No. 1E, rather than Work No. 1D, but this relies on being able to secure the necessary land from the Nuclear Decommissioning Authority (NDA). The Applicant may choose to commence Work No. 1D under the DCO, as much of the works are common to both Work No. 1D and 1E, and in the event that the necessary land rights are then secured from the NDA, the remainder of the works will be carried out as Work No. 1E. For the sake of clarity, the purpose of Art 5(3) is simply to ensure that if the undertaker serves notice that it is commencing Work No 1E (using the NDA land), it cannot then revert to Work No. 1D. The provision that: " in the event that the undertaker has implemented Work No. 1D(d) or (e), the undertaker may not implement Work 1E(d)" was inserted at the local planning authority's request to ensure that in the event that the car parking has been laid out pursuant to Work No. 1D, the Applicant cannot then go on to build out the alternative car parking under Work No 1E (as this would lead to



excessive car parking cumulatively and something never envisaged by either the Applicant or the local planning authorities).

- 2.6 **ExA DCO 1.25 (Art 5(6)):** What happens if the undertaker and the local planning authority do not agree?
- 2.7 **Applicant's response:** We assume that the ExA is referring here to what is now art 5(8). In the event that the undertaker and the local planning authority cannot agree which conditions of any new planning permission correspond to requirements of the DCO for the purpose of deemed discharge, the matter could be settled through arbitration as provided for in art 82. However, in practice it is more likely that the undertaker would simply choose to seek approval under the relevant DCO requirement in respect of Work No. 1D or Work No. 1E as the case may be.
- 2.8 **ExA DCO 1.140 (Art 2):** Art 2 – references to Works 1D and 1E. It is evident that the intention is that these are in the alternative. Please will the Applicant explain the criteria and method for deciding which is to apply and guide the ExA to all the parts of the DCO which are used for the decision. Please will the Applicant do the same for Sizewell B relocated facilities permission 1 and Sizewell B relocated facilities permission 2.
- 2.9 **Applicant's response:** The table below shows the equivalence between works authorised by the two existing planning permissions, and the works authorised by DCO Works No. 1D and 1E. The Applicant and EDF Nuclear Generation Limited's preferred option is to carry out the version of the relocated facilities works which utilises the NDA's land. The Applicant already has planning permission for these works, but is seeking also to authorise them via the DCO. The primary reason for this dual consenting approach was originally to ensure that these works were consented even if the planning permission for them was not granted, or was quashed for any reason. This permission is now beyond the 6 week period for judicial review, however there may still be reasons why it is preferable for these works to be carried out under the DCO (in particular, to ensure a single set of requirements applies to the entirety of the main development site once the rest of the main site works commence). Discussions are ongoing between the Applicant and EDF Nuclear Generation Limited in relation to when and if it will be appropriate to 'switch' from carrying out these works under the planning permission to carrying them out under the DCO in the form of Work No. 1E.
- 2.10 In the event that the NDA land is not acquired by the Applicant, the intention is that Work No. 1D will be carried out by EDF Nuclear Generation Limited. As these works are not authorised by any planning permission, there would be a need to 'switch' from carrying out the works authorised by the "Sizewell B relocated facilities permission 1" to carrying out Work No 1D under the DCO. The early phases of these two sets of works are identical, which is why it is possible for EDF Nuclear Generation Limited to commence the works under the existing planning permission and then switch to finishing off the scheme under the DCO if granted.
- 2.11 The dDCO does not restrict the Applicant or EDF Nuclear Generation Limited's ability to choose whether to implement Work No. 1D or Work No. 1E, nor should it. Both sets of works have been assessed in the DCO application and are acceptable in planning terms.



Authorised by planning permission under TCPA 1990?	Authorised by the DCO?
"Sizewell B relocated facilities permission 1" as defined by the dDCO (granted on 13 November 2019)	No
No	Work No. 1D - "Sizewell B relocation works 1". These works are a varied form of the works approved by the Sizewell B relocated facilities permission 1 under the TCPA permission granted on 13 November 2019
"Sizewell B relocation works 2" as defined by the dDCO, granted consent on 18 February 2021 in the form of the "Sizewell B relocated facilities permission 2".  This is the form of the relocated facilities works which utilises the NDA's land, and is the Applicant's preferred option.	Work No. 1E – "Sizewell B relocation works 2".  This is the form of the relocated facilities works which utilises the NDA's land, and is the Applicant's preferred option.

- 2.12 **ExA DCO 1.142(i) (Art 5 and para 4.7 of the Explanatory Memorandum):** The latter states that "If the undertaker has commenced Work No. 1E, it may not thereafter carry out works under Work No.1D (article 5(3))" Where does this appear in Art 5? The article appears to hinge on whether notice is served as to which Work is being implemented
- 2.13 **Applicant response:** This appears in art 5(3): "Where the undertaker serves notice on the local planning authority that it is commencing Work No. 1E it shall not thereafter carry out Work No. 1D [...]" Art 5(2) prevents the carrying out of either Work No. 1D or Work No. 1E unless notice has been served under art 5(1).
- 2.14 **ExA 1.142 (ii)** What is the reason for the preventing Work No 1E(d) if Work 1D(d) or (e) have been implemented? (In passing, the term "implemented" is new at this point and is undefined. Whilst it is a common and useful term, is not "commenced" preferable in Art 5(3)?)
- 2.15 **Applicant response:** See response to DCO 1.23 above. In terms of the use of the word 'implement', we have changed the first use of this term to 'commence' but prefer to keep the second use of this term as 'implement' as we believe this better captures the essence of what is intended, which is that the whole of Work No. 1E(d) (the car parking) may not be carried out if any part of the car parking in Work No. 1D has been carried out.
- 2.16 **ExA 1.142 (iii)** The intention seems to be that Work 1E is preferred; please confirm that understanding. How practically will it be known that Work 1D or 1E has been commenced?
- 2.17 **Applicant response:** See response to DCO 1.140 above. Work No. 1D and Work No. 1E contain many common features. It is for this reason that pursuant to art. 5(2) the undertaker is required to serve notice on the local planning authority to inform them which of the two works is being carried out, so that they can ensure compliance accordingly with the relevant 'approved plans' for the set of works the undertaker has declared they are carrying out.



**Annex**

<b>Condition</b>	<b>Comments</b>
<p><b>Condition 12 (RF1 and RF2)</b></p> <p>Prior to the above ground construction of the relevant part of the development (other than Permitted Preparatory Works as identified in Informative 1) a landscape plan including the details set out in (i) to (vii) below shall be submitted to and approved by the Local Planning Authority.</p> <p>i) Planting;            ii) Management of existing and new planted areas;            iii) Restoration of areas affected by construction works;            iv) Details of the height, type, size and species of the shrubs and trees to be planted;            v) Details of the measures to be taken to create new flora and fauna habitats and of the management of such new habitats;            vi) Phasing of works included in the scheme; and            vii) Details of protective fencing.</p> <p>The approved plan shall be implemented within the first available planting season after the commencement of above ground construction of the relevant part of the development and appropriately managed and maintained for a minimum period of 5 years, any plant or tree dying within that 5 year timeframe will be replaced.</p> <p>Reason: To ensure proper landscaping for the development and for the protection of semi natural habitats within the development site boundary.</p>	<p>Whilst there are ongoing maintenance requirements under this condition, article 5(1)(b) of the dDCO operates such that if notice is served to switch to RF1 or RF2, the future maintenance requirements will be governed by the relevant requirement in the DCO (Requirement 14) except in respect of any breach that occurred under the RF1/RF2 permission prior to the switch.</p>
<p><b>Condition 15 (RF1 and RF2)</b></p> <p>Prior to the commencement of the relevant part of the development (other than Permitted Preparatory Works as defined in Informative 1) a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the relevant part of the development and infiltration testing, must be submitted to and approved in writing by the Local Planning Authority, in consultation with the Environment Agency and Suffolk County Council as Lead Local Flood Authority. The scheme shall be implemented, maintained and managed in accordance with the approved details.</p>	<p>Comment as above but in relation to Requirement 5.</p>



Condition	Comments
<p>Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.</p>	
<p><b>Condition 23 (RF1 and RF2)</b></p> <p>No development shall commence (other than Permitted Preparatory Works as defined in Informative 1) until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the local planning authority. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP and shall include:</p> <p>A) Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include :-</p> <ul style="list-style-type: none"> <li>i. Temporary drainage systems</li> <li>ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses</li> <li>iii. Measures for managing any on or offsite flood risk associated with construction</li> </ul> <p>Reason: To ensure the development does not cause increased flood risk, or pollution of watercourses or groundwater.</p>	<p>Comment as above but in relation to Requirement 5</p>
<p><b>Condition 16 (RF1 and RF2)</b></p> <p>In the event that Sizewell C Nuclear Power Station is not permitted by the Secretary of State, or not implemented within five years of the development consent order being issued, a scheme of restoration in accordance with details first submitted to and agreed in writing by the Local Planning Authority will occur at the areas previously vacated by Sizewell B buildings and not to be re-used.</p> <p>The scheme shall be submitted to and approved in writing within 18 months of the date of the final decision by the Secretary of State to refuse consent for the Sizewell C Nuclear Power Station (or, if later, the date that any legal challenge to such decision is finally</p>	<p>If the DCO is not granted then the switch notice will never be served under article 5(1) meaning that condition 16 of the RF1/RF2 permission will continue to be enforceable.</p>



Condition	Comments
<p>resolved).</p> <p>All restorative works shall be carried out in accordance with a Restoration Scheme, including a timeframe for the restoration works, in accordance with details first submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: To ensure that development does not occur unnecessarily and to protect the environment.</p>	



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## APPENDIX 14D DCO DRAFTING NOTE 4

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## APPENDIX 14D - DCO DRAFTING NOTE 4

### SCHEDULE 20 : DEEMED MARINE LICENCE INCLUDING RESPONSES TO ExQ1: DCO 1.101, 1.102, and 1.108

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#### 1. INTRODUCTION

- 1.1 This drafting note responds to a number of the ExA's questions relating to Schedule 20 of the dDCO (the Deemed Marine Licence, 'DML'). It should be noted that a number of changes have been made to the DML in Rev 4.0, which respond in part to comments from the MMO through ongoing engagement, as well as in response to questions from the ExA.

#### 2. DEFINITION OF AUTHORISED DEVELOPMENT AND INCONSISTENCIES WITH ART 2 – DCO 1.101

- 2.1 **ExA DCO 1.101:** The ExA has asked "**Why is a definition of 'authorised development' needed? There is a definition already in Art 2. What is to be the position if there is a conflict between the two definitions? Surely the convention that by including the matter the drafts person will have intended there to be meaning (and therefore a difference) will come into play. The DML uses other terms from the remainder of the DCO without redefining them, such as Work No. 1A(m). And it includes other terms, such as "commence" giving them a different meaning. Also, the definition of "environmental information" in the DCO and the DML is different and it is not clear if this is for good reason.**"
- 2.2 **Applicant response – "authorised development"** – replacement of this term with the defined term 'marine works' has been made in Schedule 20 Rev 4.0 dDCO. The definition of 'authorised development' has been deleted.
- 2.3 **Applicant reference to Work Nos** – The Works referred to in Schedule 20 are now defined by reference to the Works of these names in Schedule 1 of the DCO.
- 2.4 **Applicant response – other inconsistent definitions:** We have reviewed where definitions differed between art 2 in Rev 3.0 dDCO, and Schedule 20 of Rev 3.0. The Annex to this note sets out that comparison, and in each case refers to the way in which this has been dealt with in Rev 4.0 dDCO.



3. **DEFINITION OF 'MAINTAIN' – DCO 1.102**

3.1 **ExA DCO 1.101: Sch 20 Para 1. Definition of “maintain”.** The ExA has stated: "This originally required maintenance activities to have been subject to the assessment in the environmental information and in Revision 3 [AS-143] has the proviso that the work do not give rise to unassessed effects." The ExA's specific questions are responded to individually below:

3.2 **ExA (i) Should it be made clear that the mitigation required by the ES and that applied elsewhere in this DCO must be complied with?**

**Applicant response:**

3.3 Neither the dDCO nor the Deemed Marine Licence (DML) rely on the definition of the word “maintain” (whether in Article 2 or Schedule 20) as the legal mechanism to secure the implementation of the specific mitigation measures that are identified in the ES.

3.4 The Mitigation Route Map (Doc Ref. 8.12(B) identifies the legal mechanisms that are proposed to be used for this purpose by reference to each individual mitigation measure and other relevant commitment.

3.5 The licensable marine activities authorised by the DML are in relation to the construction, maintenance and operation of a number of works packages, some of which are temporary and some of which are permanent (DML paragraph 4(2)). Part 3 of the draft DML sets out the conditions to be imposed on the licence, relating to “Pre-Construction” (paragraphs 10 to 20) and “During Construction, Operation and Maintenance” (paragraphs 21 to 50). The latter conditions apply to any maintenance activities, and secure compliance with specific mitigation and control measures of relevance to those activities.

3.6 The condition at paragraph 34 is of particular relevance, in that it requires the undertaker to submit a “Maintenance Activities Plan” to the MMO for its approval. The Maintenance Activities Plan must include, amongst other things: “Details of controls and mitigation in place in order to protect the environment” (paragraph 34(1)(d)). It must be updated every five years (sub-paragraph (2)), or when additional activities are required that are not characterised within the current approved plan (sub-paragraph (3)), and must be implemented as approved (sub-paragraph (4)).

3.7 Furthermore, no maintenance activities are authorised by the DML if they would “give rise to any materially new or materially different environmental effects” to those assessed. Insofar as any different or additional mitigation measures are required in order to ensure that additional specific legal constraint is not breached, the undertaker would be obliged to put such measures in place and ensure their effectiveness.

3.8 Implementation of all relevant mitigation measures is thus already secured by means of requirements, obligations, conditions and other legal mechanisms. It is therefore neither necessary nor appropriate to supplement the definition of the word “maintain” in order to seek to duplicate their effect.



3.9 **ExA (ii) Is it right to apply this to the whole of the “authorised development” as defined in the DCO given that this is in a deemed marine licence?**

3.10 **Applicant response:** In the Rev 4.0 dDCO the term 'authorised development' has been replaced by 'marine works'

3.11 **ExA (iii) The same question the ExA raises on Art 2 of the dDCO in relation to “maintain” also applies here.**

3.12 **Applicant response:** See the answer to DCO.1.7, which applies equally to the definition of the word “maintain” in the deemed marine licence. The definitions have now been aligned. The new definition is set out in the table in the Annex to this note.

#### 4. **REPLACEMENT OF STRUCTURES – DCO 1.108**

4.1 **ExA DCO 1.107 - Sch 20 Para 5(e). "This allows replacement of structures. Should it be limited to like for like or otherwise limited? If not, how will environmental assessment aspects be met?"**

**Applicant response:**

4.2 The replacement of structures is only permitted pursuant to the DML insofar as it is properly to be regarded as maintenance of the authorised project (see the response to DCO.1.7) and does not give rise to any materially new or materially different environmental effects to those identified.

4.3 In addition, individual mitigation measures and controls relied upon in the ES in assessing the likely significant environmental effects of the proposed licensed activities are secured by means of requirements, obligations, conditions etc. as shown in the Mitigation Route Map.

4.4 Furthermore, for the reasons set out in response to DCO.1.102 the condition imposed at condition 34 of the draft DML would ensure that all maintenance activities have to be undertaken in accordance with a Maintenance Activities Plan, approved by the MMO and containing details of controls and mitigation in place to protect the environment.

4.5 The combined effect of these constraints and controls ensures that any maintenance activities authorised by the DML (whether involving the replacement of any element or otherwise) will not be likely to give rise to environmental effects that are materially new or materially different to those assessed.

4.6 For those reasons it is unnecessary to constrain the replacement of structures so that may only be done on a 'like for like' basis. It would also be undesirable to do so, because it may well be that in some circumstances there is environmental and/or other public interest benefit from replacing an existing element of the authorised development with an alternative that is not 'like for like'. Advances in technology and understanding of environmental effects during the operational lifespan of the permanent structures make this an



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entirely foreseeable eventuality, and it would be inappropriate to prevent such replacement from taking place simply because it is not 'like for like'.

**Herbert Smith Freehills LLP**



Annex

<b>Rev 3.0 dDCO – art 2 (Interpretation)</b>	<b>Rev 3.0 dDCO Schedule 20 Deemed Marine Licence</b>	<b>Action taken in Rev 4.0 of dDCO in relation to the inconsistency</b>
<p>“commence” means beginning to carry out any material operation, as defined in section 155 of the 2008 Act (when development begins), forming part, or carried out for the purposes, of the authorised development other than operations consisting of—</p> <ul style="list-style-type: none"> <li>(a) site preparation and clearance works;</li> <li>(b) pre-construction archaeological works;</li> <li>(c) environmental surveys and monitoring;</li> <li>(d) removal of hedgerows, trees and shrubs;</li> <li>(e) investigations for the purpose of assessing ground conditions;</li> <li>(f) diversion or laying of services;</li> <li>(g) remedial work in respect of any contamination or adverse ground conditions (excluding works including and associated with dewatering activities carried out as part of Work No. 1A(l), Work No. 1A(t) and Work No.1A(u) in Schedule 1);</li> <li>(h) receipt and erection of construction plant and equipment;</li> <li>(i) the temporary display of site notices and advertisements; and</li> <li>(j) erection of temporary buildings and structures (which for the purpose of this definition does not include Work</li> </ul>	<p>“commence” means beginning to carry out any licensed activity or any phase of licensed activity and “commenced” and “commencement” are to be construed accordingly</p>	<p>We consider it appropriate for the definitions to differ. No change has been made in Rev 4.0 dDCO to the definition of 'commence' as for the purpose of the deemed marine licence, it makes sense for this definition to be tied to the commencement of 'licensed activities' as these comprise all and only the activities which are governed by the marine licence, being those set out in Part 2 of Schedule 20.</p> <p>The Applicant's position with regard to the definition of 'commence' in article 2 in Rev 4.0 dDCO is explained in response to the ExA's questions ref DCO 1.1, 1.2 and 1.3.</p>



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<p>No. 9(a) (northern park and ride), Work No. 10(a) (southern park and ride) or Work No. 13(a) (freight management facility).</p> <p>the words “commencement” and “commenced” are to be construed accordingly;</p>		
<p>“Environmental Statement” means the document certified as such by the Secretary of State under article 80;</p>	<p>“Environmental Statement” means the document submitted by the undertaker to support its application for development consent and certified as such by the Secretary of State under article 80 and identified in Schedule 22 for the purposes of this Order;</p>	<p>The definition of 'Environmental Statement' has been amended in Schedule 20 of Rev 4.0 dDCO to match the article 2 definition.</p>
<p>“maintain” includes inspect, repair, adjust, alter, remove or reconstruct, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental information, and any derivative of “maintain” is to be construed accordingly;</p>	<p>“maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of the authorised development, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental information and “maintenance” and “maintaining” are to be construed accordingly;</p>	<p>Having considered and responded to the ExA's question DCO 1.7 (in Appendix 14F - DCO Drafting Note 6), and 1.102 and 1.108 (in this Appendix 4D - DCO Drafting Note 4) and having considered and responded to the comments on the ExA in relation to the Wylfa DCO in response to DCO 1.135 (in Appendix H - DCO Drafting Note 8), we have aligned the definitions in article 2 and in the DML.</p> <p>Both now define 'maintain' as: "includes inspect, repair, adjust, alter, <b>refurbish, clear, remove or reconstruct, replace and improve,</b> provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental information, and any derivative of “maintain” is to be construed accordingly;"</p> <p>The words 'refurbish', and 'replace and improve' were previously only featured in the</p>



		DML definition, but have now been carried into the article 2 definition. The word 'clear' has been added for the reasons set out in this Appendix 14D - DCO Drafting Note 4 (responding to DCO 1.108).
“marine works” means Work Nos. 1A(m), 1A(bb), 1A(n), 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 2I, 2J, 2K and 2L described in Schedule 1 and any other works below mean high water springs authorised by this Order or, as the case may require, any part of those works and “marine work” refers to any one of the marine works;	“marine works” means Work Nos. 1A(m) 1A(bb), 1A(n), 2 described in Schedule 1 and any other works below MHWS authorised by this Order or, as the case may require, any part of those and “marine work” refers to any one of the marine works	Definition in Schedule 20 Rev 4.0 dDCO amended to reflect the article 2 definition, save that reference is made to 'the Order' rather than 'this Order', as the deemed marine licence has been worded such that it can be read as a standalone document, which will assist if variations are made to it in future outside of the DCO.
“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time, unless otherwise agreed with Marine Management Organisation;	“MHWS” means Mean High Water Spring tide mark;	In Rev 4.0 dDCO, Schedule 20 has been updated to reflect the definition in article 2, save that in both definitions we have deleted the words ' unless otherwise agreed with Marine Management Organisation' as this appears only to have been provided for in the draft Wylfa DCO and has no other precedent.
“undertaker” means NNB Generation Company (SZC) Limited (company number 09284825) or any person who has the benefit of this Order in accordance with articles 8 (Benefit of Order) and 9 (Consent to transfer benefit of Order);	“undertaker” means NNB GenCo (SZC) Ltd (registered company number 09284825) or the person who has the benefit of this Order in accordance with article 8 (Benefit of Order) and 9 (Consent to transfer benefit of Order);	In Rev 4.0 dDCO, Schedule 20 has been updated to reflect the definition in article 2.



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## APPENDIX 14E DCO DRAFTING NOTE 5

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## APPENDIX 14E – DCO DRAFTING NOTE 5

### RESPONSE TO ExQ1 DCO 1.73

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1. **WHY IS COMPARISON WITH ASSESSED EFFECTS RELEVANT? THOSE EFFECTS WILL INCLUDE THINGS FOUND TO HAVE VARIOUS DEGREES OF SIGNIFICANCE, WHICH MAY THEN HAVE BEEN MITIGATED BY FOR EXAMPLE SECONDARY OR TERTIARY MITIGATION.**
- 1.1 The purpose of these words in para 1(3) is to place a constraint on the ability of a discharging authority to approve details or other documents which would give rise to materially new or materially different environmental effects to those which have been assessed and found to be acceptable at the time of making the DCO.
- 1.2 The effect is to limit the extent of the flexibility otherwise provided by the use of tailpieces in various requirements, having regard to case law relating to their use in the context of the Town and Country Planning Act 1990. The courts have accepted that tailpieces may properly be used provided that they are made subject to appropriate limitations. In particular, the courts have been willing to accept tailpieces that are limited so that material changes to the scope of a development or environmental effects beyond that which has been assessed by the Local Planning Authority cannot be allowed (see e.g. *R (Butler) v. East Dorset DC* [2016] EWHC 1527 (Admin) at para. 49).
- 1.3 This drafting in the dDCO reflects the approach that has been adopted in the drafting of a number of made DCOs (see e.g. the Thames Tideway Tunnel DCO, Sch. 3 para. 1(3), the North London Heat and Power DCO, Sch. 2 para. 1(2), the Hinkley Point C DCO, Sch. 2 para. 1(4) and the VPI Immingham Open Cycle Gas Turbine DCO, Sch. 2, para. 28(1)).
- 1.4 In addition, the dDCO for the proposed Wylfa new nuclear power station, as amended by the ExA, incorporated an equivalent provision at paragraph 1(4) of Schedule 3: Requirements. As the ExAR explains, that provision was subject to detailed examination in the wider context of the use of tailpieces generally (ExAR para. 21.8.81). Subject to the addition of a further constraint ensuring the development remains within the parameters set by reference to the Rochdale envelope (the addition of which was acknowledged to be unprecedented), the ExA evidently regarded the provision as acceptable and appropriate (ExAR paras. 21.8.91-21.8.93).
- 1.5 The equivalent provisions in those made DCOs and the Wylfa dDCO, however, were drafted so that the comparison was to be made with the environmental effects “*assessed in the Environmental Statement*”.
- 1.6 In the Sizewell C dDCO the reference is instead to the effects assessed in “*the environmental information*”. Whilst the Applicant would be content to adopt the same form of words as used in those other DCOs, so that comparison is made with the ES, the reference to the environmental information is intended to reflect the fact that (as in any such process) the decision-maker’s own assessment of likely significant environmental effects may differ in some respects from the assessment undertaken on behalf of the Applicant and reported in the ES. Hence the definition of “*environmental information*” in Art. 2 of the dDCO reflects and incorporates the broad definition of that term in the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regulations”).



- 1.7 Having considered the issue further in response to the ExA's question, the Applicant now proposes to amend the drafting so as to address the issue that has been raised and to align it more closely with the decision-making process required by the EIA Regulations.
- 1.8 Regulation 21 governs the decision as to whether development consent should be granted for EIA development having regard to the environmental information. Pursuant to regulation 21(1) the Secretary of State must take the following steps when reaching that decision:
  - 1.8.1 examine the environmental information;
  - 1.8.2 reach a reasoned conclusion on the significant effects of the proposed development, taking account of that examination; and
  - 1.8.3 integrate that conclusion into the decision as to whether an order is to be granted.
- 1.9 The effect is that the likely significant effects on which the judgment of overall acceptability is made are those which the Secretary of State identifies in the second of those three steps. Having regard to the purpose of para 1(3), it is considered that those effects ought to be used as the appropriate reference point rather than those assessed in the "*environmental information*" as defined.
- 1.10 A further advantage of using those effects as the appropriate reference point would be that the Secretary of State's conclusion on the significant effects would necessarily take account of such secondary and/or tertiary mitigation as is secured in the DCO as made, together with any associated legal obligations entered into.
- 1.11 Suitable proposed amendments have been made to revision 4 of the dDCO and EM, which are submitted with this response at Deadline 2.
2. **SHOULD THE ASSESSMENT INSTEAD BE AGAINST THE POSITION AT THE TIME OF SEEKING THE "UNLESS OTHERWISE AGREED" – THE BASELINE MAY HAVE CHANGED BY THEN. IF THERE IS TO BE A COMPARISON WITH THE CURRENT ASSESSMENT, OR THE ASSESSMENT AFTER MITIGATION, WHAT IS THE APPROPRIATE DOCUMENTATION AGAINST WHICH THE COMPARISON SHOULD BE MADE AND HOW IS IT TO BE IDENTIFIED AND ACCESSED?**
  - 2.1 The assessment of environmental effects of the subject matter of the details or document in question would necessarily be an assessment of those effects undertaken at the time of seeking the approval/agreement. The effects identified would then be compared to those effects identified at the time of the decision to make the DCO.
  - 2.2 If the relevant baseline has changed in the intervening period in such a way as to result in a materially new or materially different effect at the time of approval/agreement compared to that assessed at the time of making the DCO, the later assessment should reveal that change as a matter of course. If and when that happens, the limitation would come into effect.
  - 2.3 If the later assessment submitted by the Undertaker was judged unsatisfactory by the discharging authority because it did not identify and address post-DCO changes in the baseline, the discharging authority would be able to withhold its approval until an up to date assessment was provided.
  - 2.4 The documentation issue identified in (ii) would be addressed by the proposed change to the drafting identified in (i) above. If the comparison of effects is undertaken by reference to the Secretary of State's assessment of likely significant effects, the relevant documentation would be the ExAR and DL which document the reasoned conclusion required by Regulation 21(1)(b) of the EIA Regulations, together with such environmental information as is referred to therein as providing the basis for that assessment.
  - 2.5 In the main, the relevant environmental information would be that provided in the ES which would be a certified document (see Sch. 22 of the dDCO).



3. **HOW IS THE DECISION ON EFFECTS TO BE TAKEN? COULD THE “SUBSEQUENT APPLICATION” APPROACH IN THE INFRASTRUCTURE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2017/572 BE APPLIED BY THE DCO TO THE APPROVALS ADDRESSED BY PARA 1(3) OF SCH 2 AND PROVIDE A SUITABLE PROCEDURE? THE EXA NOTES THAT THE SUBSEQUENT APPROVALS PROCESS INCORPORATES A SCREENING PROCESS SO AS TO WEED OUT MATTERS NOT NEEDING EIA.**
- 3.1 The decision on effects would be for the discharging authority to make, as a matter of planning judgment, pursuant to the procedure established by Art. 83 and Sch. 23 (Procedure for approvals, consents and appeals).
- 3.2 If the discharging authority considers that it has not been provided with sufficient information (including any necessary assessments) to enable it to consider the application and reach an informed judgment on effects, it can request such information from the undertaker (Sch. 23, para. 2(2)). Any disputes as to the necessity or otherwise for any further information can be resolved by means of the appeal mechanism in Sch. 23 para. 3.
- 3.3 The Applicant does not consider there to be any public interest justification for further regulation or prescription of the procedure by which the relevant discharging authority exercises its judgment and discretion in each case. In particular, the Applicant is not aware of any evidence of equivalent drafting giving rise to problems in the operation of other made DCOs.
- 3.4 There is no proper basis for importing the more onerous requirements associated with the making of a “*subsequent application*” as defined in the 2017 Regulations. Those requirements are intended to cater for circumstances in which either the applicant or the discharging authority have decided that the original ES is not adequate to assess the environmental effects of the development for which approval is sought in the subsequent application. The proposed limitations incorporated into Sch. 2 para. 1(3) would act to prevent development being approved which went beyond the scope of what had already been assessed.



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## APPENDIX 14F DCO DRAFTING NOTE 6

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## APPENDIX 14F - DCO DRAFTING NOTE 6

### RESPONSE TO ExQ1 DCO.1.7 – DEFINITION OF 'MAINTAIN'

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#### 1. THE DEFINITION OF 'MAINTAIN'

**ExA Question: *The definition includes “alter, remove or reconstruct”. On its face, that would include decommissioning and the construction of a new power station. The ExA doubts this is what is intended and notes that there is intended to be a limit by reference to new or materially different environmental effects. However, lesser reconstructions may pass that test but nonetheless be development which ought to be regulated by planning control?***

**Applicant response:**

- 1.1 The DCO, if made, will be a piece of delegated legislation, and therefore falls to be understood and interpreted having regard to the principles of statutory construction. The meaning given to defined terms within the DCO will have regard not only to the words used, but also the statutory context in which they are used.<sup>1</sup> That is of importance when considering the inclusive list of activities identified as falling within the definition of “maintain”. The statutory context here is that the purpose of the Order is to grant the powers and development consent necessary to construct, operate and maintain a new nuclear power station.
- 1.2 The activities authorised by Article 6 are inherently constrained by the fact that the underlying concept is one of ‘maintenance’ of the authorised development. In that context, it would be wrong to treat the contents of the *inclusive* list of what might constitute maintenance as being the main determinative factor in controlling the scope of Article 6. Indeed, it is a principle of statutory interpretation that the ordinary meaning of a defined term itself is part of the material which can be used to construe the definition.<sup>2</sup> In this way, the defined term is likely to exert influence over the way that the definition is understood and applied.<sup>3</sup>
- 1.3 The purpose of Article 6 is to authorise the activities required to maintain the authorised development so that it can continue to operate and perform the functions for which it was originally constructed, throughout its operational lifespan.
- 1.4 It is important when considering this issue to have regard to the nature and scale of the authorised development, the wide range of works and circumstances which are dealt with by the dDCO, and the need for the authorised development to be maintained over a long time period. In many ways, it is the nature and scale of the “authorised development” as defined (and hence the type and range of activities reasonably required to maintain it

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<sup>1</sup> *R v Secretary of State for the Environment, Transport and the Regions, ex p Spath Holme Ltd* [2001] 2 AC 349 at 396, *per* Lord Nicholls: “Statutory interpretation is an exercise which requires the court to identify the meaning borne by the words in question in the particular context. The task of the court is often said to be to ascertain the intention of Parliament expressed in the language under consideration. This is correct and may be helpful so long as it is remembered that the “intention of Parliament” is an objective concept, not subjective.”

<sup>2</sup> *Birmingham City Council v Walker* [2007] UKHL 22, [2007] 2 AC 262, *per* Lord Hoffmann at [11].

<sup>3</sup> *Oxfordshire County Council v Oxford City Council* [2006] UKHL 25, [2006] 2 AC 674 *per* Lord Scott of Foscote at [82]: “It is impossible to cancel the ingrained emotion of a word merely by an announcement”.



throughout the operational period) that serves as the key determinant of what may be done pursuant to Article 6, rather than the inclusive list.

- 1.5 For example, the DCO does not grant development consent to decommission the new power station. Decommissioning of the authorised development is, by its very nature, an activity that falls outside the concept of its 'maintenance'. Far from maintaining the new power station so that it can continue to operate and serve its intended purpose, decommissioning involves the cessation of operation and the subsequent removal of the power station so that it can no longer serve its intended purpose. It is therefore an activity that could not properly be said to be authorised by Article 6, whether or not the word "*remove*" was included within the inclusive list.
- 1.6 Indeed, for the same reasons decommissioning would not be authorised by Article 6 even if the word "*maintain*" was not defined in Article 2, and its meaning therefore had to be discerned using the principles of statutory interpretation alone. (That is not, however, the preferred approach. The consistent inclusion of a definition of "*maintain*" in DCOs made under the PA 2008 to date reflects the fact that it provides important operational certainty and clarity for Undertakers and local planning authorities alike.)
- 1.7 It follows from the fact that decommissioning of the new nuclear power station is not authorised pursuant to Article 6 that the subsequent construction of a replacement is also not authorised.
- 1.8 Seen in its statutory context, the inclusive list is intended to provide clarity as to whether certain activities required in the course of maintenance are authorised. It may, for example, be necessary to "*remove*" a structure, building or piece of plant and either replace or "*reconstruct*" it in order to ensure the ongoing effective and efficient operation of the power station. This is explained in the EM at page 5 paragraph 3.8, which states that:  
*"The undertaker considers this to be appropriate to enable itself to properly maintain and protect the authorised development throughout the operational period (for example, maintenance activities will inevitably include the need to refurbish or reconstruct operational buildings or replace components of the power station following technological advances or damage)."*
- 1.9 The inclusion of the words "*remove or reconstruct*" within the list therefore provides clarity and certainty that the activity of removing and replacing/reconstructing the element in question would constitute maintenance of the authorised development and can therefore be carried out under Article 6.
- 1.10 The DCO is intended to authorise all development that is required to construct, operate and maintain the new power station throughout its lifespan, provided that it does not give rise to materially new or materially different environmental effects. Many of the activities likely to be required to maintain the authorised development over that time will constitute development, and a key purpose of the system of development control introduced by the PA 2008 is to enable all such activities to be authorised in a single Order. In that context it would clearly be inappropriate to draft the DCO so that any future maintenance activity that constituted 'development' could only be carried out if the Undertaker first obtains a grant of planning permission from the local planning authority, or alternatively obtains a further DCO or an amendment to the existing DCO.
- 1.11 Finally, in considering the appropriate definition of the word "*maintain*", and the purpose and implications of the definition, it is important to note that the same issue has been raised and addressed by ExAs on many previous occasions. Indeed, this was true even at



the time of the Thames Tideway Tunnel (“TTT”) examination in 2013 as the TTT ExA noted at para. 20.56 of its ExAR:

*“The definition of ‘maintain’ has been questioned and debated widely in subsequent Nationally Significant Infrastructure Project (NSIP) cases [i.e. subsequent to the Rookery South (Resource Recovery Facility) Order 2011] relating to a wide range of infrastructure under PA 2008.”*

1.12 For completeness, the definition included in the TTT DCO is as follows:

*“‘maintain’ includes maintain, inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, demolish, replace or improve the authorised development, so that it is fit for the purpose for which it was originally constructed, and ‘maintaining’ and ‘maintenance’ shall be construed accordingly.”*

1.13 The scope and implications of the definition of “*maintain*” was also an issue raised and addressed more recently by the Wylfa ExA (see Wylfa EXAR paras. 21.8.32-21.8.43). The inclusive list within the definition in the dDCO as amended by the ExA in that case was as follows:

*“... includes inspect, repair, adjust, alter, improve, landscape, preserve, remove, reconstruct, refurbish, relay, extend, enlarge or replace any part of the authorised development ...” (emphasis added).*

1.14 The changes to the definition introduced during the Wylfa examination are addressed separately in response to ExAQ DCO.1.135.

1.15 Consistency in decision-making by public bodies is an important consideration in this context, both for applicants and development control authorities, and for public confidence in the operation of the development control system (see **North Wiltshire DC v. SSE** [1992] 65 P&CR 34). Whilst model provisions are no longer obligatory considerations, the stated public interest considerations behind their provision and use (namely to promote consistency in drafting of Orders and in the system of development control for NSIPs) remain important, and are reflected in the reference made to precedent both by Applicants and ExAs.

1.16 The definition of “*maintain*” in the SZC dDCO is consistent with a long line of precedent, and the outcome of the consideration of these issues by a number of other ExAs and Secretaries of State. There is nothing in the circumstances of this case that would justify a more restrictive definition of the term “*maintain*” than in other DCOs. Indeed, the scale, nature and anticipated operational lifespan of the proposed Sizewell C “*authorised development*” would all militate strongly against that approach.

**ExA Question (i): Might the following definition be adequate: “maintain includes inspect, repair, adjust, alter, clear, refurbish or improve, and any derivative of “maintain” is to be construed accordingly”, with the addition of the prohibition relating to maintenance causing environmental effects?**

**Applicant response:**

1.17 For the reasons explained above, the words “*remove or reconstruct*” serve an important and necessary purpose within the inclusive list. Their scope is inherently and sufficiently constrained by the fact that such activity is only authorised if (a) it is in the nature of



'maintenance', and (b) it does not give rise to any materially new or materially different environmental effects.

- 1.18 The ExA's suggested alternative definition does not contain the words "*remove or reconstruct*" but instead substitutes the word "*clear*".
- 1.19 If the word "*clear*" is intended to allow for elements of the authorised development to be removed where that is required in order to maintain it, the deletion of the word "*remove*" would appear to be unnecessary. However, the two words are not necessarily synonymous, and it is to be noted that the equivalent definition in the TTT DCO included both (see above). The Applicant is therefore content to add the word "*clear*" to the inclusive list in response to the ExA's suggestion, but not to delete the word "*remove*".
- 1.20 Furthermore, the removal of the words "*or reconstruct*" would appear to be intended to exclude activities which would appropriately be regarded as maintenance and which are likely to be essential in order to maintain the power station in good working order throughout its lengthy operational lifespan. That would plainly be inappropriate for the reasons summarised above.
- 1.21 The Applicant is content to add the words "*refurbish or improve*" to the inclusive list in response to the ExA's suggestion, on the basis that (a) such activities properly fall within the concept of maintenance, (b) the same words appear in the equivalent definition in Part 1 paragraph 1 of the Deemed Marine Licence in Schedule 20, and (c) their inclusion would also be consistent with the list provided in a number of other made DCOs including the TTT DCO, The Northampton Gateway Rail Freight Interchange Order 2019/1358, The Riverside Energy Park Order 2020/419, The Southampton to London Pipeline Development Consent Order 2020/1099, The Immingham Open Cycle Gas Turbine Order 2020/847 and The West Burton C (Gas Fired Generating Station) Order 2020/1148.

**ExA Question (ii)** [Question for the host authorities]

**ExA Question (iii): If the Applicant disagrees with the ExA's suggestion, please will it, in answering the question, explain clearly the intent of the breadth of the definition and reflect on whether it ought to be reduced?**

**Applicant response:**

- 1.22 See the explanation set out above. For those reasons the Applicant does not consider that it is necessary or appropriate to reduce the scope of the inclusive list.

**ExA Question (iv): See also the ExA's questions on Sch 2 para 1 (tailpieces in the context of EIA). Taking that also into account, how does the Applicant expect that the prohibition relating to maintenance causing environmental effects would work in practice and be enforced? How would the local planning [authority] know in advance of an item of maintenance that materially new/different effects would be caused by the maintenance? What action would they be able to take? Or is the intention and practice simply going to be that maintenance which breaches the prohibition would be without approval, a breach of the DCO and therefore a criminal offence?**

**Applicant response:**

- 1.23 The issue raised by this question is not unique to the Sizewell C project, and applies in exactly the same way to all DCOs which have a definition of "*maintain*" that includes such a constraint.
- 1.24 It is a feature of the PA 2008 that the enforcement options available for breach of the terms of a DCO are more limited in scope than those available to local planning authorities under





the Town and Country Planning Act 1990 for equivalent breaches of the terms of a planning permission. That reflects the very different nature and purpose of a DCO, and Parliament has determined that it should be a criminal offence to carry out development in breach of the terms of a DCO or otherwise failing to comply with the terms of a DCO (PA 2008, s.161).

- 1.25 The risk of criminal prosecution for breach of the terms of the DCO has important practical consequences. In particular, an Undertaker contemplating the carrying out of maintenance activities which might realistically give rise to any materially new or materially different environmental effects has a powerful incentive not to commission such works unless and until a suitable assessment has been undertaken which demonstrates that no such effects are in fact likely to arise.
- 1.26 It is not necessary (nor would it be reasonable or practicable) for the local planning authority to be involved in advance of every instance of maintenance activity in relation to the authorised development throughout its operational lifespan. Whilst it would be open to the Undertaker to engage with the local planning authority in advance of more significant maintenance works if considered appropriate (as a matter of prudence and good practice having regard to the consequences of any breach of the DCO) that is not something that should be or needs to be prescribed by the Order itself.
- 1.27 In the event that maintenance works were carried out which gave rise to materially new or materially different environmental effects, the undertaker would be liable to be prosecuted for an offence under s.161. That provides a sufficient and effective means of securing adherence to the constraint included within the definition.

**Herbert Smith Freehills LLP**



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## APPENDIX 14G DCO DRAFTING NOTE 7

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## DRAFTING NOTE 7

### RESPONSE TO ExQ1 DCO 1.144 ARTICLE 14(1)(b) and Schedule 10 Part 3

*The Explanatory Memorandum states that this new provision allows for the status of streets from highways open to all traffic to highways for pedestrians only. They are referred to as NMUs in Schedule 10 Part 3.*

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1. **PLEASE WILL SCC GIVE ITS VIEW ON THIS?**

1.1 SCC to respond.

2. **DOES NMU MEAN "NON-MOTORISED USERS"?**

2.1 Yes, "NMU" stands for "non-motorised users". References to highway (all traffic) and highway (NMUs) were included in revision 3 of the draft DCO [\[AS-143\]](#) and the Access and Rights of Way Plans [AS-113 to AS-114]. These terms are explained in the notes above the key on the Access and Rights of Way Plans. The amendments introduced a revised labelling approach which differentiates between:

2.1.1 "footpaths" meaning footpaths, cyclepaths, bridleways, byways and restricted byways<sup>1</sup>; and

2.1.2 "highways" meaning all public highways including those with adjacent footways and cycleways. "Highways" are then differentiated as:

(A) "highway (all traffic)" meaning a carriageway on which all forms of traffic (including motor vehicles) can pass and repass; and

(B) "highway (NMUs)" meaning any part of the public highway on which motor vehicles are not permitted (e.g. a footway or cycleway adjacent to a highway (all traffic))<sup>2</sup>.

2.2 Prior to adopting this revised labelling approach, references were made to either "footpath" or "highway". These terms were explained in the notes above the key on the earlier revisions of the Access and Rights of Way Plans [\[APP-013\]](#) and they carried the following meanings:

2.2.1 "footpaths" meant all footpaths, cyclepaths, bridleways, byways and restricted byways<sup>3</sup>; and

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<sup>1</sup> All "footpaths" are located outside the public highway boundary.

<sup>2</sup> The Applicant acknowledges that this explanation is omitted from the Access and Rights of Way Plans.

Should the ExA be satisfied with the revised labelling approach, the Applicant would be happy to add this explanation to the next revision of the plans.

<sup>3</sup> "Footpaths" were labelled as such whether they were within or outside the public highway boundary.



- 2.2.2 "highways" meant all public highways including those with adjacent footways and cycleways<sup>4</sup>.
- 2.3 The principal reasons for the change in labelling approach are:
- 2.3.1 "Highway" is a general term which applies to any defined route over which the public can pass and repass<sup>5</sup>. It is therefore technically incorrect to make reference to a highway being converted to a footpath as a footpath *is* a form of highway. An example of this technical error can be found on sheet 22 of revision 1 of the Access and Rights of Way Plans [APP-013]– see dark green dashed line;
- 2.3.2 Where "highway" (meaning "highway (all traffic)") is converted to "footpath" (meaning "highway (NMU)"), it is technically incorrect to use at the start and end points "PSH" labels, which identify the points of commencement and termination of permanent stopping up of highway. This is because the change in status of the public highway (i.e. from "highway (all traffic)" to "highway (NMU)") does not require the public highway to be stopped up. An example of this can be found by comparing sheet 18 of revision 1 (see dark green dashed line between the points PSH 11/15 and PSH 11/16) with the same sheet of revision 3 (see dashed orange line between the points PCN 11/6 and PCN 11/7).
- 2.3.3 Labelling footways that are within the public highway boundary as "footpaths" is technically incorrect in a number of instances because the relevant footway forms part of the public highway and is maintained by and the responsibility of the highway authority (SCC). Footpaths on the other hand form part of the public right of way network and are maintained by and the responsibility of the local authority (ESC). The Applicant has therefore sought to ensure that there are no sections of footway that are labelled as footpath.;
- 2.4 The technical distinctions and errors identified at 2.3.1-2.3.3 above are important ones which the Applicant felt should be made clear within Schedule 10 of the dDCO and the relevant plans. These changes were discussed and agreed with SCC and ESC on 11th January 2021.
3. **WHERE AND WHEN HAS THIS PROVISION BEEN PREVIOUSLY PUBLICISED AND CONSULTED ON?**
- 3.1 The revised labelling approach does not represent a change to the substance of the Access and Rights of Way Plans and therefore formal publicity and consultation on this drafting change was not required. Having said that, the change in approach was discussed and agreed with SCC and ESC as stated at 2.4 above.
- 3.2 For the avoidance of doubt, all diversions and alignments shown in the Access and Rights of Way Plans remain the same as originally applied for save for:

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<sup>4</sup> However, the two different types of highway (highway (all traffic) and highway (NMUs)) were not differentiated.

<sup>5</sup> See, for example, *Poole v Huskinson* (1843) 11 M&W 827 and *Fernlee Estates v City and Council of Swansea and National Assembly for Wales* [2001] P&CR 19



- PCF1/12 to PCF1/13 at the Kenton Hills/Aldhurst Farm link
- PCF11/18 and PCF 11/19 at Walk Barn Farm
- PSF11/12 and PSF 11/10 at Walk Barn Farm
- PCF12/1 and PCF12/2 on the Sizewell Link Road
- PCF12/3 and PCF12/4 on the Sizewell Link Road
- PCF12/16 and PCF12/17 on the Sizewell Link Road
- PCN12/17 and PCN12/16 on the Sizewell Link Road
- PCF12/28 and PCF12/27 on the Sizewell Link Road,

which were accepted as changes and which were duly consulted on between 18 November 2020 and 18 December 2020.

4. **PLEASE POINT THE EXA TO THE RESPONSES TO CONSULTATION ON THIS PROPOSAL.**

4.1 The Applicant refers the ExA to the response in paragraph 3 above.

5. **WHAT POLICIES APPLY TO SUCH A RESTRICTION BEING INCLUDED IN THE DCO?**

5.1 It is not clear to the Applicant which restriction in the dDCO the ExA is referring to. To be clear, the updating of the drafting in Revision 3 dDCO and accompanying changes to labelling of the Access Rights of Way Plans to refer to non-motorised users does not change the substance of the powers sought in relation to highways.

6. **WHAT LEGAL TESTS MUST BE MET FOR SUCH A RESTRICTION TO BE INCLUDED IN THE DCO?**

6.1 It is not clear to the Applicant which restriction in the dDCO the ExA is referring to. To be clear, the updating of the drafting in Revision 3 dDCO and accompanying changes to labelling of the Access Rights of Way Plans to refer to non-motorised users does not change the substance of the powers sought in relation to highways.

7. **ART 14(3)(A) DOES NOT APPEAR TO MAKE SENSE AS CURRENTLY DRAFTED. WHAT IS INTENDED? IS THERE A MISSING "AND" BETWEEN "THE STREET AUTHORITY" AND "IS OPEN FOR USE"? OR IS SOMETHING ELSE INTENDED?**

7.1 The ExA is correct – there is a missing "and" between "the street authority" and "is open for use". Thank you for highlighting this omission. The Applicant has included this amendment in revision 4 of the dDCO (Doc Ref. 3.1(C)).

8. **WHAT PROTECTIONS ARE THERE FOR THOSE WHO CURRENTLY USE THE HIGHWAYS IN QUESTION AS HIGHWAYS FOR ALL TRAFFIC OTHER THAN PEDESTRIANS / NMUS, ESPECIALLY OWNERS OF LAND WHICH ABUTS EITHER SIDE OF THE HIGHWAYS?**

8.1 The Applicant is keen to emphasise that, as explained in the responses in paragraphs 2 and 3 above, this revised approach does not alter or affect the design of the proposed development. To the extent a landowner's private means of access abuts the public highway, this has been factored in to the road scheme design which has been duly consulted on prior to submission of the DCO application.



- 8.2 By way of example, access point A11/1, which can be found on sheet 17 of the Access and Rights of Way Plans, has been retained for the land northwest of the A12, but the change in labelling approach might make it appear that the access route itself (previously shown between points PCA11/1 and PCA11/2) has been removed. Previously, the relevant stretch of highway was labelled "highway permanently converted to footpath" between points PCF11/1 and PCF11/2 whereas under the new labelling approach that same stretch of highway is labelled "existing highway (all traffic) to be permanently converted to highway (NMUs)" between points PCN11/2 and PCN11/1. The small stretch of "new permanent private means of access" between PCA11/1 and PCA11/2 (which can be seen on revs 1 and 2 of the Access and Rights of Way Plans) has been removed under the new labelling approach because the access route falls wholly within the highway boundary and forms part of the Two Village Bypass highway scheme design.
9. **SHOULD PROTECTIONS SIMILAR TO THOSE WHICH APPLY TO CHANGES UNDER THE OTHER PARTS OF SCH 10 BE APPLIED, AND IF SO WOULD THEY BE ADEQUATE?**
- 9.1 Article 14(3) provides that no street may be changed in status unless:
- 9.1.1 it is completed to the satisfaction of the street authority and is open for use with its new status as specified in Sch. 10 [part (a)]; or
- 9.1.2 a temporary alternative is provided and maintained to the reasonable satisfaction of the street authority until the completion and opening of the street as required by part (a) [part (b)].
- 9.2 It is considered that these protections broadly reflect the protections that are set out in article 14(2)(a) and (b) (relating to stopping up) and are appropriate.
10. **WITH THE INCLUSION OF AN EXTRA PARAGRAPH IN ARTICLE 14 SOME OF THE CROSS-REFERENCES NEED TO BE ADJUSTED, FOR EXAMPLE IN WHAT IS NOW PARA (5) THE REFERENCE TO PARA (5) SHOULD BECOME A REFERENCE TO PARA (6). THERE IS A MIRROR OF THIS ISSUE IN PARA (6)**
- 10.1 The Applicant is grateful to the ExA for identifying these references errors. The Applicant has corrected these in revision 4 of the dDCO.
11. **PLEASE WILL THE APPLICANT PROVIDE SPECIFIC CONFIRMATION OF THE POWER FOR THE NEW PROVISIONS IN ART 14 AND SCH 10**
- 11.1 The amendments to article 14 and schedule 10 in rev 3 of the dDCO [[AS-143](#)] were made as a direct consequence of the revised labelling approach, which, as explained in the responses above, does not constitute a change to the proposed development. The powers in the Planning Act 2008 pursuant to which art 14 and Schedule 10 are made therefore remains (as set out in the DCO Explanatory Memorandum (Doc. Ref. 3.2(B)) s120(3) Planning Act 2008.
12. **IS THE AIM OF THIS PROVISION BETTER ACHIEVED BY TRAFFIC REGULATION ORDERS?**
- 12.1 The general purposes for which Traffic Regulation Orders (TROs) may be made are set out in section 1 of the Road Traffic Regulation Act 1984. These purposes include:
- 12.1.1 *"for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising"<sup>6</sup>; and*

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<sup>6</sup> Road Traffic Regulation Act 1984, section 1(1)(a)



- 12.1.2 *"for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property"*<sup>7</sup>.
- 12.2 Article 22 of the dDCO lists the specific purposes for which TROs may be used in connection with the authorised development. These purposes include *"permit of prohibit vehicular access to any road"* (article 22(2)(e)), which falls under the general purposes referred to above at 12.1.1 and 12.1.2.
- 12.3 The reconfiguration of the existing public highway forms part of the authorised development and all necessary powers are already included within the DCO to secure their delivery. Any reconfiguration of the existing public highway required as part of the authorised development will be achieved through the general power to construct the authorised development contained in article 3 of the dDCO subject to the provisions relevant to the carrying out of street works which are contained in articles 11-22 of the dDCO. Of particular relevance is the power in article 21, which enables a street authority and the undertaker to enter into agreements relating to street works, which are akin to a highways agreements entered into under section 278 of the Highways Act 1980. Delivery of the highway works is secured by Requirement 22, which requires the works to be carried out in accordance with the relevant Approved Plans and in general accordance with the Associated Development Design Principles. The details of how the highway works would be carried out along with any further detailed design/specifications would be captured in the article 21 agreements entered into.
- 12.4 It is considered that TROs would not be required to give legal effect to the changes in status identified in the Access and Rights of Way Plans and listed in Schedule 10 Part 3 as they are merely a consequence of the design of the highway scheme, but should the traffic authority feel that TROs are required, article 22(2)(e) could be relied upon.

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<sup>7</sup> Road Traffic Regulation Act 1984, section 1(1)(d)



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## APPENDIX 14H DCO DRAFTING NOTE 8

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**APPENDIX 14H - DCO DRAFTING NOTE 8**  
**COMMENTARY ON WYLFA DCO EXA REPORT**  
**RESPONSE TO EXQ1: DCO.1.135**

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**1. INTRODUCTION**

1.1 This commentary responds to question DCO.1.135, which asks:

*“The Explanatory Memorandum makes reference a number of times to the draft Wylfa DCO. That order was not made as the application was withdrawn in late 2020. Following withdrawal, the ExA’s report to the SoS was published by the Planning Inspectorate. The Sizewell C ExA makes neither endorsement nor criticism of any of the comments of the Wylfa ExA on the DCO in that case. However, please will the Applicant take into account any comments made by the Wylfa ExA when preparing the next drafts of the DCO and the Explanatory Memorandum and explain why it proposes or rejects them. Please also state whether references to the Wylfa DCO which are already in the Explanatory Memorandum are consistent with the comments by the Wylfa ExA.”*

1.2 The Applicant has revised the Explanatory Memorandum (“EM”) (Doc Ref. 3.2(B)) in order to remove all references to the Wylfa draft DCO (“dDCO”) on basis that the application was withdrawn by Horizon, and so there is no longer any prospect that it will become a made DCO. As such, the EM has been edited so that it refers only to made DCOs by way of precedent. All of the DCOs referred to will therefore have been subject to scrutiny not only by the relevant ExA but also by the relevant Government Department and its lawyers.

1.3 In light of this amendment to the Explanatory Memorandum, the implications of the Wylfa EXA’s comments and any issues of consistency have been dealt with in this response by reference to the SZC dDCO itself, rather than by reference to the EM. For ease of reference, however, this report also contains references to the previous draft of the EM for each Article considered.

1.4 The remainder of this commentary comprises three sections.

1.5 The first contains a list of those Articles within the Wylfa dDCO that were identified in Table 1 of the Wylfa EXA’s Report (“EXAR”) (Volume 3:22-24) as remaining unchanged throughout the examination. The list identifies the corresponding Articles within the SZC dDCO. It should be noted, however, that some of the “unchanged” provisions of the Wylfa dDCO differ in certain respects from the equivalent provisions in the SZC dDCO as a result of differences in drafting.

1.6 The second contains a list of those Articles within the Wylfa dDCO that were identified in Table 2 of the Wylfa EXAR (Volume 3:25-27) as having only been subject to minor or consequential changes during the examination. This list too identifies the corresponding Articles within the SZC dDCO and explains (i) the extent to which the change is considered to be material, and (ii) whether or not the change has been adopted by the Applicant within the SZC dDCO and the reason for this.

1.7 The third contains a list of those Articles within the Wylfa dDCO that were identified in Table 3 of the Wylfa EXAR (Volume 3:28-32) as having been subject to more material or substantive changes and disputes. This list identifies the corresponding Articles within the



SZC dDCO and provides an explanation for the implication of the changes identified for the drafting of the DCO.

1. **UNCHANGED ARTICLES**

1.1 The following provisions of the Wylfa dDCO remained unchanged throughout the examination:

<b>Wylfa dDCO provision</b>	<b>SZC dDCO provision and EM reference</b>
Art. 6 - Maintenance of the authorised development	Art. 6 - Maintenance of authorised development <i>SZC EM, Art. 6, p. 8, para. 4.1</i>
Art. 8 - Benefit of Order	Art. 8 – Benefit of Order <i>SZC EM, Art. 8, p. 9, para. 4.20</i>
Art. 26 - Compulsory acquisition of land – incorporation of the mineral code	Art. 27 - Compulsory acquisition of land – incorporation of the mineral code <i>SZC EM, Art. 27, p. 23, para. 7.9</i>
Art. 44 – Further powers as to works and extinguishment of rights	Art. 47 - Further powers as to works and extinguishment of rights <i>SZC EM, Art. 47, p. 36, para. 3.14</i>
Art. 52 – Power to dredge	Art. 55 – Article removed from Rev 4.0 dDCO <i>SZC EM, Art. 55, p. 38, para. 8.36</i>
Art. 53 – Abatement of works abandoned or decayed	Art. 56 - Abatement of works abandoned or decayed <i>SZC EM, Art. 56, p. 38, para. 8.39</i>
Art. 55 – Lights on Marine Works etc. during construction	Art. 58 – Article removed from Rev 4.0 dDCO <i>SZC EM, Art. 58, p. 39, para. 8.45</i>
Art. 56 – Provision against danger to navigation	Art. 59 – Article removed from Rev 4.0 dDCO <i>SZC EM, Art. 59, p. 39, para. 8.48</i>
Art. 57 – Permanent lights on Marine Works	Art. 60 – Article removed from Rev 4.0 dDCO <i>SZC EM, Art. 60, p. 39, para. 8.51</i>
Art. 60 – Byelaws	Art. 63 – Byelaws <i>SZC EM, Art. 63, p. 40, para. 8.61</i>
Art. 62 – Publication of general directions	Art. 66 – Publication of general directions <i>SZC EM, Art. 66, p. 41, para. 8.69</i>
Art. 63 – Special directions to vessels	Art. 67 – Power to make special directions to vessels <i>SZC EM, Art. 67, p. 41, para. 8.72</i>
Art. 64 – Master’s responsibility to be unaffected	Art. 68 – Master’s responsibility in relation to directions <i>SZC EM, Art. 68, p. 42, para. 8.75</i>
Art. 66 – Enforcement of special directions	Art. 70 – Enforcement of special directions <i>SZC EM, Art. 70, p. 42, para. 8.81</i>
Art. 67 – Boarding of vessels	Art. 71 – Boarding of vessels <i>SZC EM, Art. 71, p. 42, para. 8.84</i>
Art. 68 – Charges	Art. 72 – Charges <i>SZC EM, Art. 72, p. 43, para. 8.87</i>
Art. 69 – Use of Marine Off-Loading Facility	Art. 73 - Use of beach landing facilities <i>SZC EM, Art. 73, p. 43, para. 8.90</i>
Art. 70 – Saving for Trinity House	Art. 74 – Saving for Trinity House <i>SZC EM, Art. 74, p. 43, para. 8.92</i>
Art. 72 – Application of landlord and tenant law	Art. 77 – Application of landlord and tenant law <i>SZC EM, Art. 77, p. 44, para. 9.8</i>



Art. 75 – Service of notices	Art. 81 – Service of notices
	<i>SZC EM, Art. 81, p. 46, para. 9.21</i>
Art. 81 – Crown rights	Art. 85 – Crown rights <i>SZC EM, Art. 85, p. 47, para. 9.34</i>

## 2. MINOR OR CONSEQUENTIAL AMENDMENTS

1.8 Minor or consequential changes were made to the following provisions of the Wylfa dDCO:

<b>Wylfa dDCO provision</b>	<b>SZC dDCO equivalent provision and EM reference</b>	<b>Proposed Amendment (if any) and Explanation</b>
Art.4 - Limits of deviation	Art.4 – Vertical limits of deviation  <i>SZC EM, Art. 4, p. 7, para. 4.5</i>	No change required. Project specific amendments only.
Art. 7 - Authorisation of use	Art.7 – Authorisation of use  <i>SZC EM, Art. 7, p. 8, para. 4.17</i>	No change required. Correction of typographical error only.
Art. 12 – Street works	Art.12 – Street works  <i>SZC EM, Art. 12, pp. 12-13, para. 5.15</i>	Amendment made. Addition of words “(Streets subject to street works)” after the first reference to “Schedule 9”.
Art. 13 – Application of the 1991 Act	Art. 13 – Application of the 1991 Act  <i>SZC EM, Art. 13, p. 13, para. 5.23</i>	No change required. Minor amendment already reflected in SZC dDCO. Change to internal cross-referencing not applicable.
Art. 14 – Permanent stopping up of streets, change of status and extinguishment of private means of access	Art. 14 – Permanent stopping up of streets, change of status, and extinguishment of private means of access  <i>SZC EM, Art.14, p. 15, para. 5.34</i>	Amendment made. Minor change to punctuation in Art.12(2)(a).
Art. 15 – Status of footpaths created or improved	Art. 15 – Status of footpaths created or improved  <i>SZC EM, Art.15, p. 15, para. 5.39</i>	No change required. Minor amendment already reflected in SZC dDCO.
Art. 16 – Temporary stopping up of streets	Art. 17 – Temporary stopping up of streets and private means of access  <i>SZC EM, Art. 17, p. 17, para. 5.54</i>	No change required. Minor amendment already reflected in SZC dDCO.



Art. 20 – Agreements with street and highway authorities	Art. 21 - Agreements with street authorities  <i>SZC EM, Art. 21, p. 19, para. 5.70</i>	No change required. The definition of "street authority" in s.49 of the NRSWA 1991 and "street" in the dDCO are considered to be sufficiently broad so as not to require inclusion of the "highway authority" as well as the "street authority" in this article.
Art. 21 – Traffic regulation measures	Art. 22 – Traffic regulation measures  <i>SZC EM, Art. 22, p. 20, para. 5.77</i>	No change required. Minor amendments already reflected in SZC dDCO. Other changes to internal cross-referencing not required.
Art. 22 – Discharge of water	Art. 23 – Discharge of water  <i>SZC EM, Art. 23, p. 20, para. 6.6</i>	No change required. Minor amendments already reflected in SZC dDCO.
Art. 23 – Protective work to buildings	Art. 24 – Protective work to buildings  <i>SZC EM, Art. 24, p. 21, para. 6.13</i>	Amendment made to reference to legislative provision. Other minor amendments already reflected in SZC dDCO.
Art. 25 – Compulsory acquisition of land	Art. 26 - Compulsory acquisition of land  <i>SZC EM, Art. 26, p. 22, para. 7.4</i>	No change required. Correction to internal referencing only.
Art. 29 – Private rights	Art. 31 – Private rights of way  <i>SZC EM, Art. 31, p. 25, para. 7.27</i>	No change required. Minor amendments already reflected in SZC dDCO. Other changes were project specific.
Art. 31 – Acquisition of subsoil only	Art. 33 – Acquisition of subsoil and airspace only  <i>SZC EM, Art. 33, p. 26, para. 7.35</i>	No change required. Different drafting adopted.
Art. 38 – Apparatus and rights of statutory undertakers in stopped-up streets	Art. 41 - Apparatus and rights of statutory undertakers in stopped-up streets  <i>SZC EM, Art. 41, p. 30, para. 7.74</i>	No change required. Minor amendment already reflected in SZC dDCO.
Art. 39 – Recovery of costs of new connection	Art. 42 - Recovery of costs of new connections  <i>SZC EM, Art. 42, p. 31, para. 7.80</i>	Change made. Removal of words "(statutory undertakers)" after "Article 40" from Art.42(2).



		Other minor amendments already reflected in SZC dDCO.
Art. 40 – No double recovery	Art. 43 - No double recovery  <i>SZC EM, Art. 43, p. 31, para. 7.83</i>	No change required. Same wording adopted in SZC dDCO.
Art. 42 – Rights over land	Art. 45 - Use of airspace within the Order limits  <i>SZC EM, Art. 45, p. 32, para. 7.91</i>	No change required. Minor amendment already reflected in SZC dDCO.
Art. 43 – Incorporation of the 1847 Act	Art. 46 - Incorporation of the Harbours, Docks and Piers Clauses Act 1847  <i>SZC EM, Art. 46, p. 35, para. 8.9</i>	No change required. Minor amendment already reflected in SZC dDCO.
Art. 46 – Agreements entered into by the undertaker	Art. 49 - Agreements entered into by the undertaker  <i>SZC EM, Art. 49, p. 36, para. 8.19</i>	No change required. Minor amendment already reflected in SZC dDCO.
Art. 51 – Obstruction of officers	Art. 54 - Obstruction of officers  <i>SZC EM, Art. 54, p. 38, para. 8.33</i>	No change required. Correction to internal referencing only.
Art. 54 – Survey of marine works	Art. 57 – Survey of marine works  <i>SZC EM, Art. 57, p. 38, para. 8.42</i>	No change required. Consequential amendment only.
Art. 59 – Rights to lease, etc.	Art. 62 – Rights to lease, etc.  <i>SZC EM, Art. 62, p. 40, para. 8.57</i>	No change required. Amendments project-specific or otherwise already reflected in SZC dDCO.
Art. 61 – General directions to vessels	Art. 65 – Power to make general directions to vessels  <i>SZC EM, Art. 65, p. 41, para. 8.66</i>	No change required. Minor amendment already reflected in SZC dDCO.
Art. 65 – Failure to comply with directions	Art. 69 – Failure to comply with directions  <i>SZC EM, Art. 69, p. 42, para. 8.78</i>	No change required. Correction to internal referencing only.
Art. 71 – Removal of human remains	Art. 76 - Removal of human remains  <i>SZC EM, Art. 76, p. 44, para. 9.5</i>	No change required. Minor amendments already reflected in SZC dDCO.



Art. 74 – Felling or lopping of trees and removal of hedgerows	Art. 79 – Felling or lopping of trees and removal of hedgerows  <i>SZC EM, Art. 79, p. 45, para. 9.18</i>	No change required. Minor amendments already reflected in SZC dDCO.
Art. 75 – Service of notices	Art. 81 - Service of notices  <i>SZC EM, Art. 81, p. 46, para. 9.21</i>	No change required. Minor amendments already reflected in SZC dDCO.
Art. 76 – Certification of plans, etc.	Art. 80 – Certification of plans, etc.  <i>SZC EM, Art. 80, p. 45, para. 9.20</i>	No change required. Wording from Wylfa dDCO adopted for SZC dDCO insofar as the provisions overlap.
Art. 77 - Arbitration	Art. 82 - Arbitration  <i>SZC EM, Art. 82, p. 46, para. 9.23</i>	No change required. Minor amendments already reflected in SZC dDCO. Changes to internal referencing not applicable.

1.9 Certain provisions of the Wylfa dDCO that were subject to minor or consequential amendments are not included in Table 2 in the Wylfa EXAR as they were also subject to more substantive changes or disputes and are therefore included in Table 3. The following provisions from Table 3 were also subject to minor amendments:

1.9.1 Articles 2 and 35 were amended to reflect changes to internal cross-referencing. No changes to the SZC dDCO are required in respect of these;

1.9.2 Articles 10, 11, 29, 35, 36, 40, 48 and 73 were subject to minor amendments which are already reflected in the SZC dDCO;

1.9.3 Articles 2, 5, 19 and 36 were subject to project specific amendments which are not relevant to the SZC dDCO;

1.9.4 Articles 9 and 30 were subject to minor amendments in respect of wording which does not appear in the same terms in the SZC dDCO.

1.10 For the reasons set out, these minor amendments do not require any further changes to the SZC dDCO.

## 2. CHANGED/CONTROVERSIAL ARTICLES

2.1 Twenty articles of the Wylfa dDCO were identified as being subject to more material changes or disputes. These are considered in turn in this section.

### **Article 2 – Interpretation (SZC dDCO Article 2; SZC EM pp4-5 paras. 3.6 and 3.8)**

#### **Definition of “commence”**



- 2.2 The final Wylfa dDCO defines “*commence*” in essentially the same way as the SZC dDCO, namely by reference to the carrying out of any material operation as defined, subject to certain stated exceptions. Save for items (a) and (j), the exceptions are identical.
- 2.3 Item (a) in the final Wylfa dDCO exempts site preparation and clearance in relation to certain numbered works packages, whereas the equivalent item in the SZC dDCO exempts such works generally.
- 2.4 The additional drafting in the Wylfa dDCO was added at Deadline 5 (see ExAR para. 21.8.16). Its effect, and stated purpose, was to carve out Work. No.12 – Site Preparation and Clearance Works, so that the requirements that applied to such works (the ‘SPC’ requirements in Sch. 3 at pp. 77-78) would be effective. This is explained in Table 1-1 on p. 5 of the Summary Table of Amendments to the dDCO [REP5-006].
- 2.5 The definition of ‘commence’ in the context of the SZC dDCO has been carefully considered in light of the ExA’s questions DCO 1.0, DCO 1.1 and DCO 1.2. Please refer to the Applicant’s responses to those questions in Chapter 14 (Draft DCO). See also Appendix 14D - DCO Drafting Note 4, which explains why we consider a different definition is appropriate in respect of the deemed marine licence in Schedule 20.
- 2.6 Item (j) in the final Wylfa dDCO includes a maximum height limit for temporary buildings and structures for certain specific numbered works packages at selected sites, reflecting site-specific considerations (see ExAR paras. 21.8.21 to 21.8.28). Those changes are inherently specific to the circumstances of certain individual sites, and do not therefore need to be reflected in the SZC dDCO.

**Definition of “maintain”**

- 2.7 The final Wylfa dDCO defines “maintain” in a similar way to the SZC dDCO, save for two differences:
- 2.7.1 the addition of the words identified in ExAR para. 21.8.43; and
- 2.7.2 the list of items specifically included within the definition in the Wylfa dDCO includes the following additional items: “*improve, landscape, preserve ... refurbish, relay, extend, enlarge or replace any part*”.
- 2.8 The addition of the words identified in EXAR para. 21.8.43 is unnecessary because those constraints are already effectively imposed by the existing wording within the definition. In that respect, the Applicant’s position reflects the submissions made on behalf of Horizon as summarised in [REP8-004] at paragraph 1.2.13:

*“As stated at the DCO ISH held on 6 March 2019, Counsel for Horizon outlined that he does not consider that this inclusion is necessary as the maximum parameters are already included within the definition by reference to the Environmental Statement. These parameters form the baseline assessment by which Horizon needs to determine if a maintenance work creates any “materially new or different environmental effects to those identified in the Environmental Statement”. In addition, explicit reference to the maximum parameters makes the test less clear as it is not clear what maximum parameters are being referred to and indeed, ignores the importance of minimum parameters (where relevant) in the assessment.”*

- 2.9 The Applicant has given careful consideration to the appropriate definition of ‘maintain’, in response to the ExA’s questions DCO 1.7 (see Appendix 14F- DCO Drafting Note 6) and DCO 1.102 and DCO 1.108 (see Appendix 14D - DCO Drafting Note 4). Rev 4.0 dDCO



aligns the definitions of 'maintain' in art 2 and the deemed marine licence, reflecting the considerations in those drafting notes, to define 'maintain' as: "includes inspect, repair, adjust, alter, refurbish, clear, remove or reconstruct, replace and improve, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental information, and any derivative of "maintain" is to be construed accordingly;"

2.10 The Applicant has considered the additional items specifically included in the Wylfa dDCO definition, and note that:

2.10.1 "*relay, extend, enlarge*" were added to the Wylfa dDCO ensure that maintenance relating to Marine Works was captured following deletion of a specific article on maintenance of marine works (see EXAR para. 21.8.33 and REP1-009

2.10.2 "*improve, landscape, preserve, replace*" [...], and both "*improve*" and "*replace*" are already included in the equivalent definition in the DML (Sch. 20).

2.11 The Applicant is content, however, that its Rev 4.0 definition of 'maintain' is sufficient, without needing to add the words 'relay', 'extend', 'enlarge', 'landscape' or 'preserve', which do not feature in the Rev 4.0 definition.

### **Article 3 – Development consent granted (dDCO Article 3; SZC EM p.6, para. 4.1)**

#### **Definition of NSIP and AD**

2.12 The change explained at EXAR para. 21.8.48 relates to the fact that the Wylfa site was in Wales and concerns the application of section 15(3A) of the PA 2008. It is not relevant to SZC.

#### **Alterations to numbered works**

2.13 The changes to numbered works (EXAR paras. 21.8.49 – 21.8.57) were case-specific, and are not relevant to SZC.

#### **Amendments to the drafting of the final paragraph of Other Associated Development**

2.14 The change made to the drafting in the Wylfa dDCO was to remove the words "or expedient" (ExAR para. 21.8.72).

2.15 The Applicant does not consider that it is either necessary or appropriate to remove those words from the SZC dDCO.

2.16 If an item of work not currently anticipated turns out to be expedient for the purposes of or in connection with the construction, operation and maintenance of the authorised development, and it does not give rise to any materially new or materially different environmental effects, the Undertaker should be authorised to carry out that work without the need to apply for a separate grant of planning permission from the local planning authority.

2.17 The Wylfa ExA evidently accepted that argument in relation to work which subsequently turns out to be necessary, and the only reason given for taking a different view in relation to work which turns out to be expedient was "the size and complexity of the proposed scheme necessitates greater certainty in statutory drafting to give IACC wider discretion and





flexibility to enforce". With respect, the Applicant does not consider that reasoning to be persuasive.

- 2.18 There is nothing inherently uncertain in the use of the term "expedient" in this context in a DCO, and it has been used in a number of made DCOs. By way of example, the term is used in the equivalent provision in Schedule 1 to the Northampton Gateway DCO, in The A303 Sparksford to Ilchester DCO 2021, in The Immingham Open Cycle Gas Turbine Order 2020, among a many others. The Wylfa ExA did not identify any basis for concluding that its use would introduce uncertainty.
- 2.19 The size and complexity of a new nuclear power station development is a reason for allowing a greater degree of flexibility in the drafting to recognise the possibility that additional work may subsequently be identified as being appropriate, something that is inherently more likely in a large and complex scheme taking place over a long period of time.
- 2.20 Such work may be considered expedient, for example, because it results in a saving of time and/or a reduction in the extent or duration of adverse environmental effects compared to what was assessed in the ES. If such work, whilst clearly desirable in the public interest, cannot be said to be strictly "necessary", it would not be authorised if the drafting in the Wylfa dDCO was adopted.
- 2.21 The discretion and flexibility to enforce is not hampered in any way by the inclusion of the words "*or expedient*". The difference lies in what is authorised, not in the ability effectively to enforce against that which is not authorised.

**Schedule 3 – Requirements (SZC dDCO Schedule 2; SZC EM pp.48-50, paras. 10.5-10.16)**

**Flexibility and tailpieces**

- 2.22 The change made to the Wylfa dDCO and identified at ExAR para. 21.8.93 has not been adopted in the changes made to the SZC dDCO because it is not considered to be necessary or appropriate. With respect, the Applicant does not consider the Wylfa ExA's reasoning to be persuasive.
- 2.22.1 The reference to parameters is unnecessary because it is already captured by the existing wording within the definition concerning the EIA, and the effect of the relevant requirements. Thus the additional words are not needed to achieve the objective identified by the Wylfa ExA in para. 21.8.93.
- 2.22.2 The meaning of the term "*minor or immaterial changes*" is undefined in the Wylfa dDCO, and is uncertain. If it is intended to refer to changes whose effects do not go outside those which has been assessed, it is (at best) unnecessary duplication. If it is intended to go beyond that, both the meaning and effect are unclear.
- 2.22.3 For those reasons it is not accepted that the additional drafting "*adds to clarity*" as suggested. The drafting in the SZC dDCO is clear in its meaning and effect, and reflected in many made DCOs. The words added by the Wylfa EXA introduce uncertainty and appear to have no precedent in any made Order.
- 2.23 We refer the ExA to the Applicant's response to DCO.1.73 (Appendix 14E - DCO Drafting Note 5), which responds to similar issues raised by the SZC ExA in relation to the discharge of requirements and tailpieces.

**Requirements**



- 2.24 These changes were case-specific and not relevant to the SZC DCO. No changes to requirements are therefore suggested as a result.  
**Article 5 – Effect of the Order on the Site Preparation Permission (SZC dDCO Article 5; SZC EM pp.7-8 paras. 4.6-4.11)**
- 2.25 The changes were case-specific and not relevant to the SZC DCO. No changes are therefore suggested as a result.  
**Article 9 – Consent to transfer the benefit of the Order (SZC Article 9; SZC EM pp.9-10 paras. 4.21-4.28)**
- 2.26 Although the drafting of Article 9 was controversial in the Wylfa examination (see ExAR paras. 21.8.270-21.8.279), ultimately the ExA accepted Horizon's justification and its proposed drafting (ExAR para. 21.8.280).
- 2.27 No changes to the SZC dDCO are therefore suggested as a result of the Wylfa EXAR.
- 2.28 However, please see Appendix 14A - DCO Drafting Note 1 which explains the Applicant's revised drafting of art 8 and 9 in Rev 4.0 dDCO, and responds to ExA questions DCO 1.26 and 1.27 as well as related questions.  
**Article 11 – Power to Alter Streets (SZC Article 11; SZC EM pp. 11-12 paras 5.1-5.9)**
- 2.29 The minor amendments made to Article 11 in the Wylfa dDCO (ExAR para. 21.8.94) are already reflected in the drafting of Article 11 of the SZC dDCO and therefore no changes are suggested as a result.
- 2.30 We note that the Wylfa ExA recommended that a definition was added of '56 days' to clarify that it meant '56 consecutive days including bank holidays, weekends and other public holidays' " (EXAR 21.8.296-21.8.298). With respect, we do not consider it necessary to add such a definition. We consider that the meaning of a 'day' is perfectly clear as a matter of English language, and it would only be if something other than every day were intended that there would be a need to specify this through a definition. We do not believe that in general statutory instruments, including made DCOS, have found it necessary to create such a definition.  
**Article 19 – maintenance of new and altered streets (SZC dDCO Article 20; SZC EM pp.18-19 paras. 5.64-5.67)**
- 2.31 Both the drafting of Article 19(1) and (2) of the Wylfa dDCO and the changes made during the examination were case-specific and do not apply to Article 20 of the SZC dDCO – Construction and maintenance of new and altered streets. Article 19(3) and (4) in the Wylfa dDCO are in the same form as Article 20(3) and (4) of the SZC dDCO and were not changed.  
**Article 28 – Time limit for exercise of authority to acquire land compulsorily (SZC dDCO Article 29; SZC EM p. 23 paras. 7.14-7.16)**
- 2.32 The changes made to this Article were case-specific (see EXAR para. 21.8.304) and therefore no changes are proposed to the SZC DCO as a result.  
**Article 30 – Application of the 1981 Act (SZC dDCO Article 32; SZC EM p. 25 paras. 7.28-7.31)**



- 2.33 The changes made to this Article were case-specific (see EXAR para. 21.8.306) and therefore no changes are proposed to the SZC DCO as a result.
- Article 33 – Modification of the 1965 Act (SZC dDCO Article 35; SZC EM p. 26 paras. 7.37-7.38)**
- 2.34 Article 33 of the Wylfa dDCO is in essentially the same terms as Article 35 of the SZC dDCO, save for the consequential differences in references.
- 2.35 Para. 21.8.309 of the Wylfa EXAR notes that this provision was not contentious and the EXA accepted its appropriateness and justification.
- Article 35 – Temporary Use of land for carrying out the authorised development (SZC dDCO Article 37; SZC EM pp. 26-27 paras. 7.42-7.51)**
- 2.36 The change made to the Wylfa dDCO to add sub-paragraphs (5) and (6) dealing with compensation (EXAR para. 21.8.310) brings it into line with the drafting of Article 37(5) and (6) in the SZC dDCO, and no further change is required as a result.
- 2.37 Otherwise the drafting was not controversial and remained unchanged (EXAR para. 21.8.311).
- Article 36 – Temporary use of land for maintaining the authorised development (SZC dDCO Article 39; SZC EM pp. 28-29 paras. 7.55-7.63)**
- 2.38 The change made to the Wylfa dDCO to add sub-paragraphs (7) and (8) dealing with compensation (EXAR para. 21.8.313) brings it into line with the drafting of Article 39(7) and (8) in the SZC dDCO, and no further change is required as a result.
- 2.39 The other change made to the Wylfa dDCO is the addition of “*any highway land*” in sub-paragraph (2)(c). This was a change made by Horizon during the examination in response to a representation by the local planning authority [REP3-019 p. 20] to clarify that the power would not apply to operational highway land during the operation of the power station (see [REP5-006] p. 9). The reason given by the local planning authority for seeking this change was case-specific, namely that whilst the power provided by the Article “*is required to allow proper maintenance of the nuclear power station ... [the] nature of the nuclear power station is however such that the operational power station itself will not be immediately abutting a public highway, this power is accordingly not required over public highways for maintenance works to the power station*”.
- 2.40 We do not agree that it is necessary or appropriate to exclude 'highway land' from the land which may be temporarily used to maintain the authorised development. The article in the form included within the SZC dDCO (which excludes only houses, gardens and occupied buildings) has a long history of precedents in Acts and Orders of different kinds authorising works, including many made DCOs. To specifically exclude highways, when this has not been considered necessary previously would need strong justification. In our view, The Secretary of State and Parliament in making DCOs, Transport and Works Act Orders and 'works' Acts with the traditional formulation of words have been content to rely upon the test of what is 'reasonably required', which defines the scope of the power in paragraph (1), and to provide the specific reassurance of an absolute prohibition only in relation to inhabited buildings and gardens. We see no reason to deviate from this approach.
- Article 37 – Statutory Undertakers (SZC dDCO Article 40; SZC EM pp. 29-30 paras. 7.64-7.70)**



- 2.41 The changes made to Article 37(3) to clarify the status of NDA and Magnox as statutory undertakers for these purposes (ExAR para. 21.8.314) were case-specific, and no change is required to Article 40 of the SZC dDCO as a result.

**Article 48 – Limits of Harbour (SZC dDCO Article 51; SZC EM p. 37 paras. 8-23-8.25)**

- 2.42 The minor change made to Article 48(2) to add reference to Schedule 16 brings it into line with the drafting of Article 51(2) of the SZC dDCO, and no further change is required as a result.

**Article 49 – Application of the Marine and Coastal Access Act 2009 (SZC dDCO Article 52; SZC EM p. 37 paras. 8.26-8.27)**

- 2.43 This Article was added to the Wylfa dDCO to reflect the fact that it did not include a deemed Marine Licence, and that it would be necessary to obtain such a licence notwithstanding the provisions of the Order (see EXAR paras. 21.8.320-21.8.323).

- 2.44 It is therefore case-specific and not relevant to the SZC dDCO which does include a deemed Marine Licence (Part 6A and Schedule 20).

**Article 58 – Safety of Navigation (SZC dDCO Article 61; SZC EM p. 39 paras. 8.52-8.54)**

- 2.45 The amendments made to Article 58 of the Wylfa dDCO were necessary to address jurisdictional issues that are specific to Wales (ExAR paras. 21.8.324-21.8.325), and are therefore not relevant to the SZC dDCO. Article 61 has in any event been deleted from SZC Rev 4.0 dDCO, as safety of navigation is dealt with solely in the deemed marine licence in Schedule 20.

**Article 73 – Operational land for the purposes of the 1990 Act (SZC dDCO Article 78; SZC EM pp. 44-45 paras. 9.9-9.12)**

- 2.46 The change made to Article 73 to limit its scope so that it does not apply to all land on which development consent was to be granted, but only to land which needs to be treated as operational land for these purposes (ExAR paras. 21.8.326-21.8.330) brings it into line with the drafting of Article 78 of the Rev 3.0 SZC dDCO, which was limited to:

2.46.1 the “permanent development site” (Article 78(a)), defined in Article 2 as “the land within the permanent development site as shown on plan SZC-SZC0100-xx-100-DRW-100089 (Main Development Site, Main Platform, Proposed General Arrangement (Operational))”; and

2.1.1 “*land in respect of which Work No. 1A(n) [soft coastal defence feature], Work No. 1A(u) [perimeter below-ground cut-off wall], Work No. 1B [new four arm roundabout], Work No. 1C [works associated with Lover’s Lane] and Work No. 1D [Works associated with the relocation of certain Sizewell B power station facilities] are authorised*” (Article 78(b)).

- 2.47 No further change is therefore required as a result. However, in response to further engagement with the local authorities, Rev 4.0 dDCO has further narrowed the scope of the areas of land covered by article 73, such that it now relates only to the ‘permanent development site’.

**Article 82 – Guarantees in respect of payment of compensation (no SZC equivalent)**



- 2.48 The addition of Article 82 arose from case-specific circumstances, namely the suspension of the Wylfa project during the course of the examination (see EXAR paras. 21.8.331-21.8.333 and [REP6-020]). It is therefore not relevant to the SZC dDCO.

**Article 83 – Funding for implementation of the authorised development (no SZC equivalent)**

- 2.49 The addition of Article 82 also arose from the suspension of the Wylfa project during the course of the examination (see EXAR paras. 21.8.334-21.8.338). It is therefore not relevant to the SZC dDCO.

**Article 86 – Marine Enforcement Authority (SZC dDCO Article 86; SZC EM p. 47 para. 9.35)**

- 2.50 The addition of Article 86 of the Wylfa dDCO during the course of the examination was necessary to address uncertainty over jurisdiction for enforcement purposes in respect of requirements relating to Marine Works. The Welsh Government was identified as the relevant enforcement body for these purposes (ExAR paras. 21.8.339-21.8.341).

- 2.51 No such uncertainty exists in the SZC dDCO. Article 86 provides that the MMO will be the enforcement authority in respect of land seaward of the mean high water springs and the area within the limits of deviation for Work No. 1A(m), Work No. 1A(bb) and Work No. 1A(n). No change is therefore required.

**Schedule 19 – Procedure for Approvals, Consent and Appeals (SZC dDCO Schedule 23; SZC EM p. 53 para. 10.38)**

- 2.52 The ExA is referred to the Applicant's responses to DCO 1.122 and DCO 1.123 set out in Appendix 14J - DCO Drafting Note 10.

**Resource planning**

- 2.53 A new paragraph 1 (Discharge Programme) was proposed by Horizon to address concerns raised by the local planning authority about its ability to undertake forward planning to ensure resources were in place to process applications (ExAR paras. 21.10.25-21.10.28).

- 2.54 The Applicant and the local planning authorities have agreed that the Deed of Obligation is the most appropriate place for all matters related to resources for the local planning authorities to be addressed. The necessary and appropriate scales, structures and mechanisms for local authority resources related to the delivery of the Sizewell C project are being discussed between the parties as there is increasing clarity on the obligations required by all parties. This will be included in future versions of the draft Deed of Obligation. No change to the SZC dDCO is therefore required as a result.

**Deemed approval**

- 2.55 The removal of the deemed approval provisions from the Wylfa dDCO (ExAR paras. 21.10.29-21.10.31) is not relevant to the SZC dDCO as Schedule 23 does not adopt a deemed approval approach (failure by the discharging authority to give notice of its decision within the decision period gives rise to a right of appeal rather than deemed approval (Schedule 23, paragraph 3(1)(b))).

**Definitions and role in relation to discharging requirements relating to works seaward of MHWS**

- 2.56 The addition of sub-paragraph 2(4) to Schedule 19 of the Wylfa dDCO was proposed as a response to a case-specific issue as to how the relevant local planning authority and Natural Resources Wales (who would be responsible for the marine licence which would



be obtained outside the DCO process) would work together in the discharge of requirements where an application must be made in relation to a works seaward of MHWS (ExAR paras. 21.10.32-21.10.36).

- 2.57 The position is slightly different in the case of the Sizewell C project, because a deemed marine licence is to be granted as part of the DCO itself, and so there is an opportunity to set out specifically how the discharge of details under both regimes (DCO requirements and deemed marine licence conditions) will work between the parties. The Applicant, the MMO (being the body responsible in England for marine licensing), and East Suffolk Council as planning authority, have engaged extensively in relation to the discharge of marine licence conditions and DCO requirements which govern the marine works for the Sizewell project. This engagement is ongoing, but we do not consider that the 'memorandum of understanding' approach drafted into the Requirements schedule at Wylfa to address the relationship between approvals under the two regimes would be necessary or helpful for Sizewell.

**Consultation on proposed changes to approved documents**

- 2.58 The ExAR did not propose a specific change to the Wylfa dDCO in relation to this issue, but did recommend that “the SoS considers making provision within Schedule 19 to require the Applicant to consult before submitting an application to amend approved documents and to include a consultation report with the application when submitting it to the discharging authority. As proposed by IACC, the consultation report should describe the consultation, the response to it and, as appropriate, the reasons for not acting on the consultation responses” (ExAR para. 21.10.41).
- 2.59 The specific concern in EXAR paras. 21.10.39-41 relates to applications “*to amend approved documents*”. There is some uncertainty here, because “*approved documents*” is not a defined term. We do not think it can simply mean details or a document that has been submitted and approved pursuant to a requirement, because there would be no logic in not requiring pre-application consultation for the initial application but then insisting on it for a further application. We assume therefore that it means an application pursuant to the tailpiece to a requirement seeking authorisation to depart from adherence to a certified document which has gone through the scrutiny of the examination process and in that sense has been “*approved*”.
- 2.60 An example might be an application made pursuant to Requirement 2 seeking authorisation to depart from the CoCP in constructing the authorised development. Certified documents cannot themselves be “*amended*” by a discharging authority, but an application of the sort described would have the same practical effect.
- 2.61 If this reading of this part of the ExAR is right, the point seems to be that a different and wider approach to consultation may be appropriate than in the case of, say, an application to approve details of the sports facilities pursuant to Requirement 12A.
- 2.62 With respect, we do not consider that such consultation is necessary, nor is it appropriate given the additional burden it would place on the Applicant.
- 2.63 Any application of the sort envisaged could only be approved by the discharging authority in the event that it had been demonstrated to its satisfaction that the subject matter “does



not give rise to any materially new or materially different environmental effects assessed in the environmental information” (Sch. 3 paragraph 1(3)).

- 2.64 That restriction necessarily limits the scope for changes to those which do not give rise to adverse effects beyond those which have already been considered through the examination and found to be acceptable.
- 2.65 In that context, the need for an application to the discharging authority seeking, say, authorisation pursuant to Requirement 2 to depart from some aspect of the CoCP, may well arise because further detailed work has identified an alternative means of addressing a particular issue that will reduce adverse effects. In those circumstances it would plainly be entirely unnecessary, unjustified and disproportionate to require the undertaker to consult the public and environmental NGOs before making the application, and to prepare and submit a consultation report with the application, explaining where appropriate the reasons for not acting on consultation responses (see EXAR paras. 21.10.39 to 21.10.41).
- 2.66 If in relation to a particular application the discharging authority concluded that there was insufficient information on the potential implications of a proposed change on a particular receptor or affected person it would be entitled to ask for more information pursuant to Schedule 23 paragraph 2. A request for further information might, in an appropriate case, include asking whether the views of a particular person, group of persons or organisation(s) with a specific interest in the subject matter had been ascertained in formulating the proposal. The discharging authority would also be entitled to consult anyone it considered appropriate before determining the application.
- 2.67 The suggested obligation would add a significant, unjustified and disproportionate additional administrative burden and cost to the process of implementing the proposed development, contrary to the public interest.
- 2.68 That is reflected in the fact that there are no known precedents for the imposition of this additional burden in any made DCOs, and there is no evidence of any relevant difficulty that has arisen in practice in the operation of the equivalent procedure to Schedule 23 in other made DCOs such as the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 and the Hinkley Point C (Nuclear Generating Station) Order 2013.

#### **Timescales for discharge of requirements**

- 2.69 The Wylfa ExA endorsed the timescales for discharge of requirements put forward by Horizon (see ExAR para. 21.10.48 and Schedule 19 para. 2(2) of the Wylfa dDCO). Those timescales are the same as those set in Schedule 23 paragraph 1(2) of revision 3 of the SZC dDCO. However, in response to ExQ1 DCO 1.54 the Applicant has agreed to update paragraph 1(2)(b) of Schedule 23 to allow for six weeks as per the model schedule at Appendix 1 of Advice Note 15.

#### **Fees**

- 2.70 In the case of the Sizewell C project, costs incurred by the relevant local authorities in discharging requirements are to be dealt with through the Deed of Obligation, rather than in the DCO.

#### **Appellate authority**

- 2.71 The change made to the Wylfa dDCO to make the Welsh Government the appellate body (ExAR para. 21.10.65) was case-specific in that it concerned the devolution settlement and



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the implications arising from that (see ExAR paras. 21.10.58-21.10.64). It is not relevant to the SZC dDCO.

**Herbert Smith Freehills LLP**





SIZEWELL C PROJECT -  
RESPONSES TO EXAMINING AUTHORITY'S  
WRITTEN QUESTIONS ISSUED ON 21<sup>ST</sup> APRIL 2021

**NOT PROTECTIVELY MARKED**

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## APPENDIX 14I DCO DRAFTING NOTE 9

**NOT PROTECTIVELY MARKED**



DRAFTING NOTE 9 (1.21 AND 1.68)

DCO 1.21: Art 4(1) – vertical limits of deviation.

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*This permits unfettered vertical deviations, subject to the Requirements and provisions in Art 11 relating to streets. Art 4(2) limits vertical deviation to 1 metre for Work 4C (Saxmundham – Leiston branch line) and Works 11 and 12 (Two village bypass and the Sizewell Link Road).*

*The ExA see that the Requirements contain some references to Parameter Plans. But to take requirement 11 as an example, it is not immediately clear that Work Nos. 1A (a) to (e) are subject to the Parameter Plans (though any variations from the Approved Plans and the design principles in Ch 5 of the Main Development Site Design and Access Statement must accord with the Main Development Site Operational Siting and Height Parameters and two of the three Main Development Site, Operational Parameter Plans). (to be found at SZC Book 2, 2.5, [APP-018]).*

*Similarly, a somewhat close reading of the Requirements is necessary to see which Parameter Plans have been applied to which Work, whether they are applied to the right Works, to ascertain whether the whole of the Proposed Development is limited by the Parameters Plans and whether or not all the Parameters Plans have been applied.*

*As the ExA reads the Requirements and the rest of the DCO there appears to be no general overriding rule that the development must not exceed the limits in the Parameter Plans. A clear straightforward limitation in the DCO preventing the Proposed Development from exceeding the Parameter Plans (which the ExA assumes describe the limits of what was assessed on normal Rochdale principles) would be helpful.*

1. PLEASE WILL THE APPLICANT INSERT [A CLEAR STRAIGHTFORWARD LIMITATION IN THE DCO PREVENTING THE PROPOSED DEVELOPMENT FROM EXCEEDING THE PARAMETER PLANS] OR ALTERNATIVELY EXPLAIN WHY IT WOULD BE INAPPROPRIATE?
  - 1.1 The approach taken to securing compliance with the parameter plans within the dDCO is clear and reflects the extent to which these plans have been used in defining different elements of the authorised development.
  - 1.2 It is important to note at the outset that not all of the authorised development has been defined using the parameter plans, and that in a number of cases where the detail of the development is to be determined post-consent the extent of the ‘Rochdale envelope’ has been secured using means other than the parameter plans. In all cases, however, the ‘Rochdale envelope’ used for the purposes of EIA has been appropriately and clearly secured through the dDCO.
  - 1.3 As the **Planning Statement** ([APP-590](#)) explains at **Section 4.7**, the approach taken to defining the various elements of the authorised development (and the flexibility built in to that definition) reflects the specific proposals, their nature, scale and timescales. For the purposes of answering the ExA’s specific question the approach is explained and summarised below by reference to key elements of the authorised development, but is not intended to be exhaustive.

**The Main Development Site**

- 1.3.1 The Main Development Site (“MDS”) plans consist of a set of plans and drawings which provide the parameters within which the main site development would be advanced (Schedule 6), as well as detailed plans for approval (Schedule 7) and indicative plans for information.
  - (A) The construction and operation parameter plans for the MDS are listed in Schedule 6.



- (B) The construction parameter plans set parameters within which construction activity on the MDS would take place, including the accommodation campus. R8 requires all temporary construction-related development on the MDS to be carried out in accordance with the relevant MDS construction parameter plans (and lists those plans). R17(2) requires the accommodation campus to be carried out in accordance with the relevant MDS parameter plan, which it identifies.
- (C) The operational parameter plans for the MDS define zones within which specific buildings, plant and structures would be located, and define maximum (and where appropriate minimum) heights for buildings, plant and structures.
- (D) In addition to the operational parameter plans, detailed designs for approximately 65 buildings and structures within the MDS have been submitted for approval. These typically comprise a general arrangement, elevations and roof plans (see Schedule 7).
- (E) Pursuant to R11 (MDS: Approved buildings, structures and plant), R12 (MDS: Reserved matters); R12B (MDS: Coastal Defences) and R13 (MDS: Ancillary structures, other buildings and plant), the MDS works must be carried out either in accordance with the detailed plans which are for approval as part of the DCO, or with detailed plans to be approved by ESC in due course. In the latter case, the details must be in accordance with, inter alia, the relevant parameter plans (which are listed in each case).

#### **Park and Ride and Freight Management Facility**

- 1.3.2 The park and ride and freight management facilities are temporary and will be built in accordance with specific parameter plans which identify zones within which buildings and structures and works must be located.
- (A) R20(2) therefore requires those works to be carried out in accordance with, inter alia, the relevant plans set out in Schedule 6 (Parameter Plans) and Schedule 7 (Approved Plans).
  - (B) Any alternative plans to those listed in Schedule 7 which are subsequently approved by ESC must be in accordance with, inter alia, the Parameter Plans (R20(3)).
- 1.3.3 In those cases, therefore, where a parameter plan approach has been taken to defining the scope of the authorised development, the relevant requirements already provide a clear and straightforward limitation preventing the development from exceeding those parameters.

#### **The Rail and Highways Works**

- 1.3.4 The rail and highways works are permanent infrastructure and will be constructed, operated and maintained in accordance with the relevant Works Plans.
- (A) Both rail and highways works are only authorised within the lines or situations shown on the Works Plans (Article 3).
  - (B) R18 requires Work No. 4 (rail works) to be carried out in accordance with the relevant plans listed in Schedule 7, or alternative plans approved by ESC. Any such alternative plans must not only be within the lines or situations shown on the relevant Works Plans (which define the location, overall layout and limits of deviation for the works) but also in accordance with the relevant section of the AD Design Principles and within the vertical limits of deviation specified in Article 4. The rail works are not therefore defined using Parameter Plans, but their location, scale and extent is nevertheless clearly controlled and constrained within the limits used for the purposes of EIA.



- (C) R22 adopts the same approach to the Highways works. As with the rail works, the Highways works are not therefore defined using Parameter Plans, but their location, scale and extent is nevertheless clearly controlled and constrained within the limits used for the purposes of EIA.

- 1.4 Accordingly, the dDCO already contains clear limitations constraining the authorised development to the parameters shown on the parameter plans in those instances where parameter plans have been used to define the authorised development. A further general limitation as contemplated by DCO.1.21(i) would therefore not only be unnecessary, it would also have to be expressed so as only to apply to those elements of the authorised development which have in fact been defined using the parameter plans. The drafting of such a limitation of scope within the provision would either have to duplicate the detail already contained in the relevant requirements or (if expressed in generic terms) require reversion to the existing requirements in order to understand its scope and effect.
- 1.5 For those reasons it is not considered that such a provision would be appropriate.

2. **PLEASE WILL THE APPLICANT ALSO PROVIDE A RECONCILIATION OF THE PARAMETER PLANS IN THE DCO WITH THE PROJECT ASSESSED IN THE ES**

**MDS (Construction)**

- 2.1 **Volume 2, Chapter 3** of the **ES** (Doc Ref. 6.14(A)) describes the construction element of the authorised development on the MDS for the purposes of assessment. This is done by reference to the MDS Construction Parameter Plan (**Figure 3.1**) and Tables 3-5 (Construction Zones and height parameter – main platform), Tables 3-6 (Construction Zones and height parameters – SZB replacement facilities and National Grid land), Table 3-7 (Maximum heights for construction activities in the temporary construction areas) and Table 3-8 (Maximum heights for construction activities on Land East of Eastland Industrial Estate).
- 2.2 The amendments made to MDS Construction Parameter Plan were identified in the **ES Addendum Volume 1 Chapter 2 [AS-181]** and shown in **Volume 2, Figure 2.2.2** of the **ES Addendum [AS-190]**.
- 2.3 The parameters identified in the ES Addendum as forming the basis of the assessment are reflected in the MDS Construction Parameter Plans listed in Schedule 6.
- 2.4 It is proposed that the relevant sections from Volume 2 Chapter 3 of the ES and the construction parameter plans are used to form the Construction Method Statement. Requirement 8 of the draft DCO would then secure compliance with the Construction Method Statement. This will then ensure that the sequence of the construction works, the built parameters of the construction related development and the parameters are secured in a clear and consistent way.

**MDS (Operation)**

- 2.5 **Volume 2 Chapter 2** of the **ES** (Doc. Ref. 6.14(A)) (as amended by the **ES Addendum**, see **Vol. 1 Chapter 2 [AS-181]** and **Vol. 3 Appendix 2.2A [AS-202]**) describes the permanent elements of the authorised development for the purposes of assessment. Section 2.3 describes the parameters applied for the MDS permanent development by reference to the parameter plans in **Figures 2.3 to 2.7, 2.2.1, 2.2.8, 2.2.11, 2.2.12** (Doc. Ref. 6.14(A)) and the parameters set out in **Tables 2.1, 2.2, 2.3, 2.5, 2.6** and **2.7**.
- 2.6 The parameters identified in the ES and ES Addendum as forming the basis of the assessment are reflected in the MDS Operational Parameter Plans listed in Schedule 6. At the top of each of these parameter plans is a note which explains that the maximum building/structure heights and siting zones are specified in **Tables 2.1, 2.2, 2.3, 2.5** and **2.7** of **Chapter 2 of Volume 2** of the **Environmental Statement** (Doc. Ref. 6.14(A)).

**Northern Park and Ride**

- 2.7 **Volume 3, Chapter 2** of the **ES** (Doc. Ref. 6.4) (as amended by the **ES Addendum**, see **Vol. 1, Chapter 3 [AS-182]**, and **Vol. 3, Appendix 3.2A [AS-240]**) describes the authorised



development for the purposes of assessment by reference to a parameter plan (Figure 2.6) which shows the zones within which specific buildings, structures and works identified in the parameter Table (Table 2.1) must be located. Table 2.1 identifies the maximum building dimensions within the zones shown on the parameters plan.

- 2.8 The parameters identified in the ES as forming the basis of the assessment are reflected in the Northern Park and Ride Parameter Plan listed in Schedule 6.
- 2.9 The Associated Development Design Principles will be updated to include the maximum building dimensions identified in Table 2.1 which will ensure that the parameters assumed in the ES have been appropriately secured.

#### **Southern Park and Ride**

- 2.10 **Volume 4, Chapter 2** of the **ES** (Doc Ref. 6.5) (as amended by the **ES Addendum**, see **Vol. 1 Chapter 4** [[AS-183](#)] and **Vol. 3 Appendix 4.2A** [[AS-242](#)]) describes the authorised development for the purposes of assessment by reference to a parameter plan (Figure 4.2.5) which shows the zones within which specific buildings, structures and works identified in the parameter Table (Table 2.1) must be located. Table 2.1 identifies the maximum building dimensions within the zones shown on the parameters plan.
- 2.11 The parameters identified in the ES as forming the basis of the assessment are reflected in the Southern Park and Ride Parameter Plan listed in Schedule 6.
- 2.12 The Associated Development Design Principles will be updated to include the maximum building dimensions identified in Table 2.1 which will ensure that the parameters assumed in the ES have been appropriately secured.

#### **Two Village Bypass**

- 2.13 **Volume 5, Chapter 2** of the **ES** (Doc. Ref. 6.6) (as amended by the **ES Addendum**, see **Vol. 1, Chapter 5** [[AS-184](#)] and **Vol. 3, Appendix 5.2.A** [[PDB-003](#)]) describes the authorised development for the purposes of assessment using the parameters shown on the relevant Works Plans shown in Appendix 2A to Volume 5.
- 2.14 The Works Plans used for the purposes of assessment are reflected in the Works Plans for the Two Village Bypass in Schedule 4 and the Plans for Approval in Schedule 7.

#### **Sizewell Link Road**

- 2.15 **Volume 6, Chapter 2** of the **ES** (Doc. Ref. 6.6) (as amended by the **ES Addendum**, see **Vol. 1, Chapter 6** [[AS-185](#)] and **Vol. 3, Appendix 6.2.A** [[AS-248](#)]) describes the authorised development for the purposes of assessment using the parameters shown on the relevant Works Plans shown in Appendix 2A to Volume 6.
- 2.16 The Works Plans used for the purposes of assessment are reflected in the Works Plans for the Sizewell Link Road in Schedule 4 and the Plans for Approval in Schedule 7.

#### **Yoxford Roundabout and other Highway Improvements**

- 2.17 **Volume 7, Chapter 2** of the **ES** (Doc. Ref. 6.7) (as amended by the **ES Addendum**, see **Vol. 1, Chapter 7** [[AS-186](#)]) describes the authorised development for the purposes of assessment using the parameters shown on the relevant Works Plans shown in Appendix 2A to Volume 7.
- 2.18 The Works Plans used for the purposes of assessment are reflected in the Works Plans for the Yoxford Roundabout and other Highway Improvements in Schedule 4 and the Plans for Approval in Schedule 7.

#### **Freight Management Facility**

- 2.19 **Volume 8, Chapter 2** of the **ES** (Doc. Ref. 6.8) describes the authorised development for the purposes of assessment by reference to the parameter plan in Figure 2.6, which identifies zones within which the specific buildings, structures and works identified in the parameter



Table (Table 2.1) must be located. Table 2.1 identifies the maximum building dimensions within the zones shown in Figure 2.6.

- 2.20 The parameters identified in the ES as forming the basis of the assessment are reflected in the Freight Management Facility Parameter Plan listed in Schedule 6.
- 2.21 The Associated Development Design Principles will be updated to include the maximum building dimensions identified in Table 2.1 which will ensure that the parameters assumed in the ES have been appropriately secured.

#### **Rail works**

- 2.22 The proposed green rail route in its entirety comprises a temporary rail extension of approximately 4.5km from the existing Saxmundham to Leiston branch line to a terminal within the main development site. These works are dealt with in two different parts of the ES.
- 2.23 **Volume 9** of the **ES** (Doc. Ref. 6.9) (and **Volume 1, Chapter 9** of the **ES Addendum [AS-188]**) addresses:
  - 2.23.1 the part of the green rail route comprising a temporary rail extension of approximately 1.8km in length from a junction with the existing Saxmundham to Leiston branch line to the proposed B1122 (Abbey Road) level crossing inclusive (referred to as the 'proposed rail extension route'); and
  - 2.23.2 the permanent upgrades to the Saxmundham to Leiston branch line (including track replacement and level crossing upgrades) (referred to as the 'proposed rail improvement works').
- 2.24 **Volume 9, Chapter 2** of the **ES** (as amended by the **ES Addendum**, see **Volume 3, Chapter 9 [AS-256 to AS-260]**) describes the authorised development for the purposes of assessment by reference to the parameters shown on the Works Plans which are reproduced in Appendix 2A, and the relevant plans set out in Schedule 7.
- 2.25 The Works Plans used for the purposes of assessment are reflected in the Works Plans for the MDS and Rail in Schedule 4 and the Plans for Approval in Schedule 7.
- 2.26 Volume 2 of the ES addresses the 2.7km section of the green rail route between the proposed B1122 (Abbey Road) level crossing and the terminal within the main development site.
- 3. **PLEASE WILL THE APPLICANT SPECIFY AND EXPLAIN THE POWER FOR ART 4 – IT IS NOT REFERRED TO IN THE EM?**
- 3.1 Paragraph 4.2 of the **EM** (Doc Ref. 3.2(B)) explains that Article 4 is included within the dDCO pursuant to section 120(3) of the PA 2008 as a provision relating to, or to matters ancillary to, the development for which consent is granted.

#### **DCO.1.68**

#### **Sch 1 Part 2, Other Associated Development**

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- 1. **PLEASE EXPLAIN HOW THIS IS LIMITED BY THE PARAMETER PLANS**
  - 1.1 This answer should be read together with the answer to DCO.1.69 which examines the controls and constraints on the works authorised by Schedule 1 Part 2 in more detail.
  - 1.2 Schedule 1 Part 2 provides a list of associated development works which are ancillary to the numbered works packages in Schedule 1, part 1. Works are only authorised "in connection with" those numbered works packages, to the extent that they do not "otherwise" form part of any such work. As explained in response to DCO.1.69, the drafting intention is to avoid what would otherwise be the repetition of a long list of minor associated development works within each of those works packages.



- 1.3 Where those numbered works packages are themselves defined by the use of parameter plans, the ancillary associated development authorised by Schedule 1 Part 2 in connection with each relevant work package is constrained by the requirements that provide that the development in question must remain within the relevant parameters.

**Work No. 1 (MDS: operational infrastructure and Sizewell B relocation works)**

- 1.4 Work No. 1 is defined in part by the use of parameter plans.
- 1.5 Temporary buildings, structures, plant, equipment, uses, haul roads, construction hoardings and means of enclosure “required in connection with” construction works carried out as part of Work No. 1 must be built and used in accordance with the MDS construction parameter plans (see Schedule 2, R8). Any associated development in connection with the construction of Work No. 1 described in Schedule 1 Part 2 is itself granted development consent subject to R8 and must therefore remain within the parameters shown.
- 1.6 Any permanent development in connection with Work No. 1 would be subject to R11 (MDS: Approved buildings, structures and plant), R12 (MDS: Reserved matters), R12B (MDS: Coastal Defences) and R13 (MDS: Ancillary Structures, other buildings and plant) as appropriate. This would ensure adherence to the limits set by the MDS Operation parameter plans (see also the answer to DCO.1.21(i)).

**Work No. 2 (MDS: cooling water infrastructure and drainage outfall)**

- 1.7 Work No. 2 is not defined by means of parameter plans (see the answer to DCO.1.69 for further information as to how works authorised by Schedule 1 Part 2 in connection with those works is constrained).

**Work No. 3 (MDS: accommodation campus)**

- 1.8 R17(2) requires Work No. 3 to be carried out in accordance with the relevant MDS Parameter Plan. Any associated development in connection with the construction of Work No. 3 authorised by Schedule 1 Part 2 is itself granted development consent subject to R17 and must therefore remain within the parameters shown.

**Work No. 4 (MDS: rail infrastructure)**

- 1.9 Work No. 4 is not defined using the parameter plans (see the answer to DCO.1.21(i) for more information as to how the location, scale and extent of these works is clearly controlled and constrained within the limits used for the purposes of EIA; and see also the answer to DCO.1.69 for further information as to how works authorised by Schedule 1 Part 2 in connection with those works is constrained).

**Work No. 5 (Sports facilities)**

- 1.10 Work No. 5 is not defined using the parameter plans. Pursuant to R12A details of the layout, scale and external appearance of this part of the authorised development must be submitted to and approved by ESC, and those details must be in general accordance with the relevant plan identified in R12A(2). Any ancillary operational associated development in connection with Work No. 5 and authorised pursuant to Schedule 1 Part 2 would need to accord with those approved details.

**Work Nos. 6, 7 and 18 (Fen Meadow Habitat)**

- 1.11 Works Nos. 6, 7 and 18 are not defined using the parameter plans. Pursuant to R14A, Works Nos. 6, 7 and 18 must be carried out in accordance with the approved fen meadow plan. Any ancillary associated development in connection with those works authorised pursuant to Schedule 1 Part 2 would equally need to be carried out in accordance with the approved plan.

**Work No. 9 (Northern Park and Ride)**

- 1.12 Work No. 9 is a temporary facility and would be built in accordance with the specific parameter plans which identify zones within which buildings and structures and works must



be located. R20(2) requires those works to be carried out with the relevant parameter plans in Schedule 6 and the relevant plans in Schedule 7. Any alternative plans to those listed in Schedule 7 which are subsequently approved by ESC must be in accordance with the parameter plans (R20(3)). Any associated development in connection with the construction of Work No. 9 described in Schedule 1 Part 2 is itself granted development consent subject to R20 and must therefore remain within the parameters shown.

**Work No. 10 (Southern Park and Ride)**

- 1.13 Work No. 10 is a temporary facility and would be built in accordance with the specific parameter plans which identify zones within which buildings and structures and works must be located. R20(2) requires those works to be carried out in accordance with the relevant parameter plans in Schedule 6 and the relevant plans in Schedule 7. Any alternative plans to those listed in Schedule 7 which are subsequently approved by ESC must be in accordance with the parameter plans (R20(3)). Any associated development in connection with the construction of Work No. 10 described in Schedule 1 Part 2 is itself granted development consent subject to R20 and must therefore remain within the parameters shown.

**Work No. 11 (Two village bypass)**

- 1.14 Work No. 11 is not defined using the parameter plans (see the answer to DCO.1.21(i) for more information as to how the location, scale and extent of these works is clearly controlled and constrained within the limits used for the purposes of EIA; and see also the answer to DCO.1.69 for further information as to how works authorised by Schedule 1 Part 2 in connection with those works are constrained). Any associated development in connection with the construction of Work No. 11 described in Schedule 1 Part 2 is itself granted development consent subject to R22 and must therefore remain within the parameters shown.

**Work No. 12 (Sizewell link road)**

- 1.15 Work No. 12 is not defined using the parameter plans (see the answer to DCO.1.21(i) for more information as to how the location, scale and extent of these works is clearly controlled and constrained within the limits used for the purposes of EIA; and see also the answer to DCO.1.69 for further information as to how works authorised by Schedule 1 Part 2 in connection with those works are constrained). Any associated development in connection with the construction of Work No. 11 described in Schedule 1 Part 2 is itself granted development consent subject to R22 and must therefore remain within the parameters shown.

**Work No. 13 (Freight management facility)**

- 1.16 Work No. 13 is a temporary facility and would be built in accordance with the specific parameter plans which identify zones within which buildings and structures and works must be located. R20(2) requires those works to be carried out with the relevant parameter plans in Schedule 6 and the relevant plans in Schedule 7. Any alternative plans to those listed in Schedule 7 which are subsequently approved by ESC must be in accordance with the parameter plans (R20(3)). Any associated development in connection with the construction of Work No. 13 described in Schedule 1 Part 2 is itself granted development consent subject to R20 and must therefore remain within the parameters shown.

**Work Nos. 14, 15, 16 and 17 (Yoxford Roundabout and other highway improvement works)**

- 1.17 Work Nos. 14 to 17 are not defined using the parameter plans (see the answer to DCO.1.21(i) for more information as to how the location, scale and extent of these works is clearly controlled and constrained within the limits used for the purposes of EIA; and see also the answer to DCO.1.69 for further information as to how works authorised by Schedule 1 Part 2 in connection with those works are constrained). Any associated development in connection with the construction of Work Nos. 14 to 17 described in Schedule 1 Part 2 is itself granted development consent subject to R22 and must therefore remain within the parameters shown.





SIZEWELL C PROJECT -  
RESPONSES TO EXAMINING AUTHORITY'S  
WRITTEN QUESTIONS ISSUED ON 21<sup>ST</sup> APRIL 2021

**NOT PROTECTIVELY MARKED**

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## APPENDIX 14J DCO DRAFTING NOTE 10

**NOT PROTECTIVELY MARKED**



## APPENDIX 14J - DCO DRAFTING NOTE 10

### PROCEDURE FOR APPROVALS, CONSENTS AND APPEALS

#### RESPONSES TO ExQ1: DCO 1.122 and DCO 1.123

#### 1. EXQ1 DCO 1.122

1.1 ExQ1 DCO 1.122 relates to Schedule 23 – procedure for approvals, consents and appeals of the draft DCO. It asks the Applicant and East Suffolk Council ('**ESC**') to provide a statement of common ground stating:

- (i) the names of the discharging authorities and all other persons whose approval, consent or appeal procedure is to be subject to Schedule 23;
- (ii) the functions of those persons subject to Schedule 23
- (iii) what differences there are between the procedure for approvals, consents and appeals and the procedure set out in Appendix 1 of AN15 accompanied by a track changes version showing the differences;
- (iv) what parts of Schedule 23 are not agreed between the Applicant and ESC;
- (v) the case of the Applicant and ESC in relation to any parts not agreed; and
- (vi) the reason and purpose of any difference from Appendix 1 of AN15 whether or not the provision is agreed.

1.2 These points are considered in paragraphs 2 to 6 below.

#### 2. DISCHARGING AUTHORITIES AND THEIR FUNCTIONS – (I) AND (II)

2.1 Schedule 23 sets out the procedure for how requirement applications should be made. Discharging authorities which are required to approve requirements as set out in Schedule 2 are listed in the table below.

Discharging Authority	Function
<b>Authorities required to approve requirements<sup>1</sup></b>	
East Suffolk Council	Local planning authority
Suffolk County Council	Local highway authority, lead local flood authority, drainage authority
Marine Management Organisation	Licensor and regulator of marine activities.

<sup>1</sup> Note that there are various other bodies (e.g. Historic England, RSPB) who will be consulted on discharge of requirements but they themselves are not subject to the provisions in Schedule 23.



3. **DIFFERENCES BETWEEN THE PROCEDURE FOR APPROVALS, CONSENTS AND APPEALS AND THE PROCEDURE SET OUT IN APPENDIX 1 OF AN15 – (III)**
- 3.1 A compare document showing the differences between Appendix 1 and Schedule 23 of the draft DCO is included at Annex A.
- 3.2 AN15 provides that "*Where an applicant seeks for any amendment(s) to be made to the drafting of the standard wording provided in appendix 1, it should be justified in full in the draft Explanatory Memorandum accompanying the draft Development Consent Order.*"
- 3.3 In accordance with AN15, the Applicant has included an explanation of the differences between Schedule 23 of the draft DCO and Appendix 1 of AN15 in the Explanatory Memorandum to the DCO (Doc. Ref. 3.2(B)) at paragraph 9.25 to 9.30. Paragraph 9.25 to 9.30 are set out below:
  - 3.3.1 *Paragraph 1(1) differs from the drafting suggested in article 1(1) in Appendix 1 of PINS' Advice Note 15: Drafting Development Consent Orders in that it applies only to approvals required pursuant to requirements, and not to approvals or agreements required pursuant to articles in the Order. We are content that this is sufficient given that other articles within the Order in respect of which approvals are to be given are subject to their own deemed approval process (see for example articles 11, 12 and 17).*
  - 3.3.2 *Paragraph 1(2) differs from the drafting suggested in article 1(2) in Appendix 1 of PINS' Advice Note 15: Drafting Development Consent Orders in that it a distinction is made between the timescales within which the discharging authority is to make a decision depending on whether the relevant requirements requires the discharging authority to consult with another party (a "requirement consultee"). A longer period of time is allowed for discharge of those requirements which require the discharging authority to engage with a consultee than those which do not (8 weeks as opposed to 6 weeks). Provision is made for extensions of time where further information is requested or where a time extension is agreed with the undertaker.*
  - 3.3.3 *Paragraph 2 sets out provisions in relation to requests for further information which the discharging authority may wish to make to the undertaker. The drafting substantially replicates the drafting in article 1(2) in Appendix 1 of PINS' Advice Note 15: Drafting Development Consent Orders, save that the proposed drafting makes a distinction between cases where there is and where there is not a duty under the requirement to consult with another party in discharging the requirement. The proposed drafting replicates that in the Hinkley point C (Nuclear Generating Station) Order 2013.*
  - 3.3.4 *Unlike the drafting in Appendix 1 of PINS' Advice Note 15: Drafting Development Consent Orders no provisions in relation to fees are proposed. The issue of how the undertaker will fund the necessary planning support within the local planning authority in relation to the Sizewell C project is one which is yet to be resolved, but it is likely that this will be dealt with via a planning performance agreement or s106 payments rather than via drafting in the Order.*
  - 3.3.5 *Paragraph 2 sets out an appeal process which applies to Order articles as well as requirements. This provides for an appeal process which applies consistently across all approvals and consents. The process substantially replicates the drafting in Appendix 1 of PINS' Advice Note 15: Drafting Development Consent Orders.*
  - 3.3.6 *Similar approaches have been taken in article 47 of the River Humber Gas Pipeline Replacement Order 2016 (S.I. 2016/853), article 39 of the North Wales Wind Farms Connection Order 2016 and article 46 of the Hinkley Point C (Nuclear Generating Station) Order 2013.*



- 3.4 The Applicant has seen similar approaches taken in other DCOs where variations have been made to Appendix 1 of AN15 and the Explanatory Memorandum sets out the reasons for any changes.
- 3.5 For example, the West Burton C Explanatory Memorandum notes in relation to Schedule 3 of The West Burton C (Gas Fired Generating Station) Order 2020:
- 3.5.1 *Schedule 3 (Procedure for discharge of requirements) sets out the process to be followed in relation to applications made to a discharging authority for any agreement or approval required by a requirement in the order. This is not in the model provisions.*
- 3.5.2 *However, it is based on the procedure contained within the Hinkley Point C (Nuclear Generating Station) Order 2013, as amended, the National Grid (King's Lynn B Power Station Connection) Order 2013 and the Eggborough Gas Fired Generating Station Order 2018 and is included to ensure that there is a clear and timely process for discharging the requirements of the Order.*
- 3.6 Another example is the Great Yarmouth Explanatory Memorandum which notes the following in relation to Schedule 2, Part 2 of The Great Yarmouth Third River Crossing Development Consent Order 2020:
- 3.6.1 *The provisions contained in Part 2 closely follow the standard drafting contained in Advice Note 15. Some additional definitions are provided in paragraph 17, for clarity and to avoid repetition, and paragraphs 18 and 20 are drafted to capture the full range of circumstances which could arise from the requirements in Part 1. The Applicant and the CPA agreed to increase the period for determination of applications under requirements from the 6 weeks set out in Advice Note 15, to 8 weeks and agreed that requests for further information must be made within 28 days of receipt of the application.*
4. **WHAT PARTS OF SCHEDULE 23 ARE NOT AGREED BETWEEN THE APPLICANT AND ESC AND THE CASE OF THE APPLICANT AND ESC IN RELATION TO ANY PARTS NOT AGREED – (IV)**
- 4.1 Revision 4 of the draft DCO (Doc. Ref. 3.1(C)) contains the agreed position of the Applicant and ESC on Schedule 23.
5. **THE CASE OF THE APPLICANT AND ESC IN RELATION TO ANY PARTS NOT AGREED – (V)**
- 5.1 Not applicable, Schedule 23 of the draft DCO is agreed between the Applicant and ESC.
6. **THE REASON AND PURPOSE OF ANY DIFFERENCE FROM APPENDIX 1 OF AN15 WHETHER OR NOT THE PROVISION IS AGREED – (VI)**
- 6.1 The reason and purpose for any differences between Appendix 1 of AN15 and Schedule 23 of the draft DCO is explained in paragraph 3 above. As noted at paragraph 3, Schedule 23 is agreed between the Applicant and ESC in revision 4 of the draft DCO.
7. **EXQ1 DCO 1.123**
- 7.1 ExQ1 DCO 1.123 also relates to Schedule 23 – procedure for approvals, consents and appeals of the draft DCO and asks the Applicant to supply a statement of common ground with each IP who is also (a) a discharging authority or (b) an other person whose approval, consent or appeal procedure is to be subject to Schedule 23 stating:
- (i) whether or not that IP agrees with the description of their function in point (ii) of the previous question and if not setting out that person's preferred description and why;



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- (ii) the position in relation to points (iv) and (v) so far as that person's functions are subject to Schedule 23;
- (iii) the reason and purpose of any difference from Appendix 1 of AN15 relating to that person's functions whether or not the provision is agreed; and
- (iv) what aspects are not agreed between them.

The Applicant has engaged with the discharging authorities on Schedule 23 as set out in the Statements of Common Ground with ESC and SCC (Doc Ref. 9.10.12) and the MMO (Doc Ref. 9.10.18).

**Herbert Smith Freehills LLP**

## SCHEDULE 1

Article ~~[X]~~83

### Procedure for approvals, consents and appeals

#### **Applications made ~~for certain approvals~~ under requirement**

1.—~~(1=)~~(1) Where an application has been made to a discharging authority for any ~~consent,~~ agreement or approval required ~~or contemplated by any of the provisions of~~ by a requirement included in this Order the discharging authority must give notice to the undertaker of its decision on the application before the end of the decision period.

(2) ~~(2)~~ For the purposes of sub-paragraph (1), the decision period is—

(a) in the case of requirements in respect of which the discharging authority has a duty under Schedule 2 of this Order to consult with any other body—

(i) ~~(a)~~ where no further information is requested under paragraph 2, ~~42 days 8 weeks~~ from the day immediately following that on which the application is received by the ~~discharging~~ authority;

(ii) ~~(b)~~ where further information is requested under paragraph 2, ~~42 days 8 weeks~~ from the day immediately following that on which ~~the~~ further information has been supplied by the undertaker under paragraph 2; or

(iii) ~~(e)~~ such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in ~~sub-paragraph (a) or (b).i~~ or (ii); and

(b) in the case of requirements in respect of which the discharging authority has no duty under Schedule 2 of this Order to consult with any other body—

(i) where no further information is requested under paragraph 2, 6 weeks from the day immediately following that on which the application is received by the authority;

(ii) where further information is requested under paragraph 2, 6 weeks from the day immediately following that on which further information has been supplied by the undertaker under paragraph 2; or

(iii) such longer period as may be agreed by the undertaker and the discharging authority in writing before the end of the period in sub-paragraph (i) or (ii).

(3) In the case of requirements in respect of which the discharging authority has a duty under Schedule 2 of this Order to consult with any other body, the discharging authority must have regard to comments received from any of those bodies.

(4) In the case of requirements in respect of which East Suffolk Council is the discharging authority under Schedule 2 of this Order, East Suffolk Council must consult with Suffolk County Council. In the case of requirements in respect of which Suffolk County Council is the discharging authority under Schedule 2 of this Order, Suffolk County Council must consult with East Suffolk Council.

#### **Further information**

2.—~~(1=)~~(1) In relation to any application to which this Schedule applies, the discharging authority has the right to request such further information from the undertaker as is necessary to enable it to consider the application.

(2) ~~(2)~~ If the discharging authority considers such further information to be necessary ~~it and the~~ requirement does not specify that consultation with a requirement consultee is required, the discharging authority must, within 10 ~~business working~~ days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the requirement specifies that consultation with a requirement consultee is required, the undertaker must issue the consultation to the requirement consultee within 3 working days of submitting the application, and must notify the discharging authority in writing.

(4) If the discharging authority does not give ~~such~~ notification as specified in sub-paragraph (2) ~~it is to or~~ (3), or otherwise fails to request any further information within the timescales provided for in this paragraph it will be deemed to have sufficient information to consider the application and ~~is will~~ not ~~subsequently thereafter be~~ entitled to request further information without the prior agreement of the undertaker.

## Fees

~~3.—(1) Where an application is made to the discharging authority for consent, agreement or approval in respect of a requirement, a fee of £[X] is to be paid to that authority.~~

~~(2) Any fee paid under this Schedule must be refunded to the undertaker within 42 days of—~~

~~(a) the application being rejected as invalidly made; or~~

~~(b) the discharging authority failing to determine the application within the decision period as determined under paragraph 1,~~

~~unless within that period the undertaker agrees, in writing, that the fee is to be retained by the discharging authority and credited in respect of a future application.~~

## Appeals

~~3.4.—(1—~~(1) The undertaker may appeal in the event ~~that that—~~

(a) the discharging authority refuses an application for any ~~consent,~~ agreement or approval required ~~or contemplated by any of the provisions of~~ by a requirement included in this Order or grants it subject to conditions;

(b) the discharging authority does not give notice of its decision to the undertaker within the decision period ~~specified in as determined under~~ paragraph 1;

(c) on receipt of a request for further information ~~under pursuant to~~ paragraph 2 the undertaker considers that either the whole or part of the specified information requested by the discharging authority is not necessary for consideration of the application; or

(d) on receipt of any further information requested, the discharging authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The ~~appeal~~ process for appeals is as ~~follows:~~ follows—

(a) any appeal by the undertaker must be made within ~~42 days~~ 6 weeks of the date of the notice of the decision or determination, or (where no determination has been made) expiry of the decision period as determined under paragraph 1;

~~(b) the undertaker must submit the appeal documentation to the Secretary of State and any appeal by the undertaker must be made within 6 weeks of the date of the notice of the decision or determination, or (where no determination has been made) expiry of the decision period as determined under paragraph 1;~~

(c) the undertaker shall submit to the Secretary of State a copy of the application submitted to the discharging authority and any supporting documentation which the undertaker may wish to provide (“the appeal documentation”);

(d) (b)the undertaker must on the same day provide copies of the appeal documentation to the discharging authority and the requirement ~~consultees~~consultee (if applicable);

- (e) ~~(e)~~ as soon as is practicable after receiving the appeal documentation, and within not more than 28 days, the Secretary of State must appoint a person to determine the appeal (“the appointed person”)<sup>†</sup>, and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention should be sent;
- (f) ~~(d)~~ the discharging authority and the requirement ~~consultees consultee (if applicable)~~ must submit any written representations in respect of the appeal to the appointed person in respect of the appeal within 20 ~~business-working~~ days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (g) ~~(e)~~ the appeal parties ~~shall~~ may make any counter-submissions to the appointed person within 20 ~~business days-working days beginning with the first day immediately following the date~~ of receipt of written representations ~~under~~ pursuant to paragraph (d); ~~and~~
- (h) ~~(3)~~ ~~The~~ the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

~~(4) The appointment of the person pursuant to sub-paragraph (e) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.~~

~~(3) (5)~~ If the appointed person considers that further information is necessary to enable ~~consideration of the appointed person to consider~~ the appeal, the appointed person must, ~~as soon as practicable,~~ notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

~~(4) (6)~~ Any further information required ~~under pursuant to~~ sub-paragraph ~~(5)~~ is to ~~must~~ be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. ~~Any written representations concerning matters contained in the~~

<sup>†</sup>~~-Appointed by the Planning Inspectorate on behalf of the Secretary of State~~

~~(5) Any written representations concerning matters contained in the~~ further information must be submitted to the appointed person, and made available to all appeal parties within 10 ~~business working~~ days of ~~that the date,~~ mentioned in sub-paragraph (3).

#### (6) Outcome of appeals

(7) On an appeal under ~~this~~ paragraph 3 of this Schedule, the appointed person ~~may~~ may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the discharging authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(8) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits ~~time limits~~, or set by the appointed person, ~~under~~ this paragraph.

(9) The appointed person may proceed to a decision even though no written representations have been made within ~~the prescribed those~~ time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(10) The decision of the appointed person on an appeal is ~~to be~~ final and binding on the ~~appeal~~ parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review within 6 weeks of the date of the appointed person’s decision beginning with the date of that decision.



(11) If an approval is given by the appointed person ~~under-pursuant to~~ this Schedule, it is deemed to be an approval for the purpose of ~~any consent, agreement or approval required under the Order or for the purpose of~~ Schedule [X] ~~(requirements)~~<sup>2</sup> as if it had been given by the discharging authority.

(12) The discharging authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) ~~is-will~~ not ~~to-be-taken-to~~ affect or invalidate the effect of the appointed person's determination.

(13) ~~(12)~~Except ~~Save~~ where a direction is given ~~under-pursuant to~~ sub-paragraph ~~(13)~~(14) requiring the costs of the appointed person to be paid by the discharging authority, the reasonable costs of the appointed person ~~are-to~~ must be met by the undertaker.<sup>[2]</sup>

(14) ~~(13)~~On application by the discharging authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it ~~is-to~~ must be made, the appointed person must have regard to the Planning Practice Guidance ~~published by the Department for Communities and Local Government on 6th~~: [appeals](#) ~~(March 2014)~~ or any circular or guidance which may from time to time replace it.

### **Interpretation of Schedule [X]**

#### **5. In this Schedule—**

~~“the appeal parties” means the discharging authority, the undertaker and any requirement consultees.~~

~~“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971;~~

~~“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted by the discharging authority in discharging that requirement.~~

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<sup>2</sup>—The costs of the appointed person are calculated based on the applicable day rate for a Single Inspector as if he or she were appointed under s78/ s79 of the PA2008. See the National Infrastructure Planning website for more information: <https://infrastructure.planninginspectorate.gov.uk/application-process/application-fees/>



SIZEWELL C PROJECT -  
RESPONSES TO EXAMINING AUTHORITY'S  
WRITTEN QUESTIONS ISSUED ON 21<sup>ST</sup> APRIL 2021

**NOT PROTECTIVELY MARKED**

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## APPENDIX 14K HPC MARINE LICENCE

**NOT PROTECTIVELY MARKED**



# Marine Management Organisation Marine Licence

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## 1 Introduction

This is a licence granted by the Marine Management Organisation on behalf of the Secretary of State to authorise the licence holder to carry on activities for which a licence is required under Part 4 of the Marine and Coastal Access Act 2009.

### 1.1 Licence number

The licence number for this licence is L/2013/00178/6

### 1.2 Licence holder

The licence holder is the person or organisation set out below:

Name / company name	NNB Generation Company (HPC) Limited
Company registration number (if applicable)	06937084
Address	90 Whitfield Street, London, England, W1T 4EZ
Contact within company	Chris Fayers
Position within company (if applicable). State if company officer or director	Head of Environment

### 1.3 Licence date

Version	6
Licence start date	07 June 2013
Licence end date	31 December 2080
Date of original issue	07 June 2013
Date of variation issue	20 December 2019

### 1.4 Licence validity

This version of this licence is valid from the licence start date to the licence end date.

This version of this licence supersedes any earlier version of this licence. Any activity commenced under a previous version of this licence and which is also a licensed activity authorised by section 4 of this version of this licence may continue in accordance with the licence conditions in section 5 of this version of this licence.

Miss Sarah Errington  
+44 (0)2082 257 401  
sarah.errington@marinemanagement.org.uk

## 2 General

### 2.1 Interpretation

In this licence, terms are as defined in section 115 of the Marine and Coastal Access Act and the Interpretation Act 1978 unless otherwise stated.

- "licensed activity" means any activity set out in section 4 of this licence.
- "licence holder" means the person(s) or organisation(s) named in section 1 above to whom this licence is granted.
- "MMO" means the Marine Management Organisation.
- "mean high water springs" means the average of high water heights occurring at the time of spring tides.
- "sea bed" or "seabed" means the ground under the sea.
- "the 2009 Act" means the Marine and Coastal Access Act 2009.
- All times shall be taken to be the time on any given day.
- All geographical co-ordinates contained within this licence are in WGS84 format (latitude and longitude degrees and minutes to three decimal places) unless stated otherwise.

### 2.2 Contacts

Except where otherwise indicated, the main point of contact with the MMO and the address for email and postal returns and correspondence shall be:

**Marine Management Organisation**

**Lancaster House**

**Hampshire Court**

**Newcastle upon Tyne**

**NE4 7YH**

**Tel:0300 123 1032**

**Fax:0191 376 2681**

**Email:marine.consents@marinemanagement.org.uk**

Any references to any local MMO officer shall be the relevant officer in the area(s) located at:

**Marine Management Organisation**

**The Fish Quay**

**Sutton Harbour**

**Plymouth**

**Devon**

**PL4 0LH**

**Tel: 01752 228001**  
**Fax: 01752 221239**  
**Email: [plymouth@marinemanagement.org.uk](mailto:plymouth@marinemanagement.org.uk)**

## **3 Project overview**

### **3.1 Project title**

Hinkley Point C Project: New Nuclear Development

### **3.2 Project description**

NNB Generation Company Limited (part of EDF Energy) is seeking a marine licence from the MMO for the marine elements of the works required to construct a new nuclear power station at Hinkley Point (hereafter referred to as HPC and the HPC Project).

All of the activities discussed herein were considered within an Environmental Statement (ES) submitted to the IPC in October 2011 for a Development Consent Order (DCO). Further details on some of the construction activities are now available but it should be noted that they are not new activities. That is, further detail is provided on the works below Mean High Water Springs (MHWS) for the purposes of the marine licence application on activities which were discussed and assessed as part of the HPC Project ES.

References in this licence to the ES and the Report to Inform the Habitats Regulations Assessment mean those documents submitted in support of the associated DCO application (Planning Inspectorate reference: EN010001).

### **3.3 Related marine licences**

L/2012/00244 - licence for the construction of a jetty to be used to deliver materials for the construction of HPC.

L/2012/00245 - licence for the dredging of a berthing pocket alongside the jetty.

## 4 Licensed activities

This section sets out the licensed activities. The licensed activities are authorised to be carried on only in accordance with the activity details below and with the licence conditions as set out in section 5 of this licence.

Please note that where licensed quantities are displayed with reference to their constituent materials, the relative quantities given for the constituent materials are indicative only.

Site 1 - Main development			
Site location		Within Bridgwater Bay. See Schedule 1.	
Activity 1.1 - Preparation of intake and outfall sites			
Activity type		Capital Dredging	
Activity location		See Environmental Statement - Volume 2 Figure 1.1	
Description		Preparation (dredging) of the sites (located 1.9km and 3.3km offshore from Hinkley Point C in Bridgwater Bay).	
Quantities			
Start date	End date	Material	Quantity (m3)
03/8/2017	01/7/2022	Clay (<31.25um)	57400
03/8/2017	01/7/2022	Sand (62.5um-2mm)	5600
03/8/2017	01/7/2022	Gravel (2-64mm)	1400
03/8/2017	01/7/2022	Silt (31.25-62.5um)	75600
Methodology		<p>Capital dredging will be undertaken at the intake and outfall locations, across the offshore works area, in order to prepare the site for the proposed construction works and, in the first instance, the drilling of the vertical shafts.</p> <p>Dredging will remove the surface sediment and expose the bedrock. After this initial dredging, there is a possibility that sediment build up may occur at the intake and outfall head sites (and at the Acoustic Fish Deterrent - AFD - locations should they be spar mounted). Therefore, secondary dredging may be necessary prior to the installation of the intake and outfall heads.</p> <p>The volume of material to be dredged is predicted to be up to a maximum of 140,000m<sup>3</sup> (and may be less), including any secondary dredging (should this be required).</p> <p>The capital dredged material will be disposed of at the Cardiff Grounds licensed disposal site. Consent for this aspect will be requested from the Welsh Government.</p>	
Programme of works		To be as agreed in Condition 5.2.1	



Activity 1.2 - Preparation of intake and outfall sites			
Activity type		Maintenance Dredging	
Activity location		See Environmental Statement - Volume 2 Figure 1.1	
Description		Preparation (dredging) of the sites (located 1.9km and 3.3km offshore from HPC in Bridgwater Bay).	
Quantities			
Start date	End date	Material	Quantity (m3)
03/8/2017	01/7/2022	Silt (31.25-62.5um)	140000
Methodology		<p>Maintenance dredging will be undertaken at the intake and outfall locations, across the offshore works area, in order to prepare the site for the proposed construction works and, in the first instance, the drilling of the vertical shafts.</p> <p>Dredging will remove the surface sediment and expose the bedrock. After this initial dredging, there is a possibility that sediment build up may occur at the intake and outfall head sites (and at the AFD locations should they be spar mounted). Therefore, secondary dredging may be necessary prior to the installation of the intake and outfall heads.</p> <p>The volume of material to be dredged is predicted to be up to a maximum of 140,000m<sup>3</sup> (and may be less), including any secondary dredging (should this be required).</p> <p>The maintenance dredge material will be disposed of at the Cardiff Grounds licensed disposal site, unless otherwise agreed by the MMO.</p>	
Programme of works		To be as agreed in Condition 5.2.1	
Activity 1.3 - Drilling of vertical shafts			
Activity type		Removal of substances from sea bed.	
Activity location		See Environmental Statement - Volume 2 Figure 1.1	
Description		Drilling of six offshore vertical shafts for the cooling water infrastructure	
Methodology		<p>Offshore temporary infrastructure for excavation of the vertical shafts will be transported to the site. All drilling and piling works will be conducted from drilling rigs deployed from jack-up or other temporary platforms. Drilling operations are likely to use a reverse circulation drill. For the shafts themselves, the general approach is likely to be to drill and case-pile sockets (essentially to drill within pre-cast, piled casings). Once drilling is complete, grout or cement is likely to be placed in the bottom of</p>	

	the hole, between the outside of the steel casing and the bedrock and between the inside of the steel casing and the pre-cast concrete liner, and the liner will be lowered into wet concrete to target elevation.	
Programme of works	To be as agreed in Condition 5.2.1	
Activity 1.4 - Deposition of drill arisings		
Activity type	Deposit of drill arisings on the sea bed.	
Activity location	See Environmental Statement - Volume 2 Figure 1.1	
Description	Deposition of drill arisings.	
Quantities		
Start date	End date	Quantity (kg)
01/4/2018	01/7/2022	678000
Methodology	<p>The vertical shafts for the outfall and intake heads are to be drilled into the sea bed. It is proposed that the drill arisings will be placed in-situ on the sea bed and that the site is characterised as a licensed disposal ground for the one-off disposal of the drill arisings. It is anticipated that the unbulked volume of drill arisings at each vertical shaft will be 565m<sup>3</sup> ; with a bulked volume of 678 tonnes.</p> <p>Shafts will be bored using wet drilling techniques from drilling rigs deployed from jack-up or other temporary platforms. Pilot holes (c 1.0m diameter) may be drilled at each shaft location to act as a guide. Stabilising piles might also be used to ensure accurate and stable deployment of the drill and casings. These piles will be removed if possible or sacrificed by burning off at rock level.</p> <p>Reverse circulation drills (e.g. Teredo 90, LD6000 or similar) are likely to be used for the excavation of the shafts. The reverse circulation drilling technique uses a combination of the surrounding sediment laden estuarine water mixed with compressed air to draw the drilled sea bed arisings back to surface. There is no introduction of any substances foreign to the local environment.</p> <p>The placement of the arisings will be controlled via the discharge pipework which will run along the side of the temporary platform to a location local to the works but as far away as is it practical for the pipe to discharge. By using a down-pipe on the bow of the temporary platform which includes a de-airing facility, any plume will be minimised.</p>	
Programme of works	To be as agreed in Condition 5.2.1	

Activity 1.5 - Disposal of tunnel boring equipment		
Activity type	Deposits under the sea bed	
Activity location	See Environmental Statement - Volume 2 Figure 1.1	
Description	Disposal of tunnel boring equipment below the sea bed.	
Quantities		
Start date	End date	Quantity (kg)
01/6/2020	01/7/2024	250000
Methodology	The horizontal cooling water tunnels will be bored from landward using three Tunnel Boring Machines (TBMs). Once the works are complete the TBM cutter heads / shields and potentially some ancillary components will be sealed below the sea bed in-situ.	
Programme of works	To be as agreed in Condition 5.2.1	
Activity 1.6 - Installation of offshore intake and outfall heads		
Activity type	Construction of new works	
Activity location	See Environmental Statement - Volume 2 Figure 1.1 and 2.9	
Description	Preparation of the site and placement of four intake heads and two outfall heads above the offshore shafts.	
Methodology	Should it be required, the removal of any silt build-up following the initial dredge (see Activity 1.1) would be undertaken. Dependent on the rate of sediment buildup, the dredge pumps may be left in position until the head structure is sealed. Reverse circulation air lift drilling is likely to be used for drilling the piles.	
Programme of works	To be as agreed in Condition 5.2.1	
Activity 1.7 - Installation of fish return outfall head		
Activity type	Construction of new works	
Activity location	See Environmental Statement - Volume 2 Figure 1.1 and 2.9	
Description	Installation of the fish return offshore outfall head (which forms part of the Fish Recovery and Return (FRR) system).	
Methodology	Detailed design and proposed construction methods are not yet available but drilling through the seafloor to provide an exit from the FRR outfall is envisaged, and placement of the outfall structure. The associated fish return tunnel will be bored from landward but will largely lie below MHWS	

	and will emerge through the sea bed at approximately 550m offshore.
Programme of works	To be as agreed in Condition 5.2.1
<b>Activity 1.8 - Installation of acoustic fish deterrent system</b>	
Activity type	Construction of new works
Activity location	See Environmental Statement - Volume 2 Figures 1.1 and 2.9
Description	Installation of acoustic fish deterrents (AFDs) on or around the four intake heads.
Methodology	The detailed design for the deployment of the AFDs is not yet known but they will either be directly mounted on the intake heads or are likely to be entirely removable from simple spars. It is likely that the installation of the AFDs will be from a temporary platform, where the AFD component would be mounted on the intake heads or lowered over the top of the spar into position.
Programme of works	To be as agreed in Condition 5.2.1
<b>Activity 1.9 - Seawall construction</b>	
Activity type	Construction of new works
Activity location	See Environmental Statement - Volume 2 Figure 1.1
Description	The construction works for the seawall, where these works occur below MHWS. A 30m construction corridor is proposed which extends onto the foreshore. Part of the toe of the seawall, although buried, extends below MHWS.
Methodology	The construction works will require that machinery for the excavation works and actual placement of the seawall have access to the upper intertidal area. A 30m wide construction zone will be established fronting the HPC Development Site and all works on the seawall will be confined to this zone. There will also be an area of intertidal where barges will land to unload rock armour to protect the toe of the seawall. A small part of the toe of the seawall itself will be buried below MHWS. A 1m wide working zone below MHWS has been allowed for the purposes of the marine licence application.
Programme of works	To be as agreed in Condition 5.2.1
<b>Activity 1.10 - Rock Armour Delivery</b>	
Activity type	Other deposits
Activity location	See Environmental Statement - Volume 2 Figure 1.1

Description	There will be an area of intertidal where barges will land to unload rock armour to protect the toe of the seawall.	
<b>Quantities</b>		
Start date	End date	Quantity (kg)
17/6/2017	31/8/2017	14000000
Methodology	The rock armour will be delivered and placed in a temporary position approximately 13 metres in front of the sea wall footprint to act as a temporary breakwater to protect the construction of the sea wall. Once the wall is completed the rock armour will be placed in its permanent position at the toe of the wall protecting it from scour and beach lowering.	
Programme of works	To be as agreed in Condition 5.2.1	

<b>Site 2 - Junction 23</b>	
Site location	Within the River Parrett estuary. See Schedule 2.
<b>Activity 2.1 - Junction 23 scour protection</b>	
Activity type	Construction of new works
Activity location	See Environmental Statement - Volume 8 Figure 1.1
Description	A concrete head and scour protection mat at the end of the drainage outfall on the River Parrett from the Junction 23 development. This will lie on the intertidal area and be submerged on flood tides.
Methodology	Access for the construction of the new drainage outfall will be from the river bank and a suitable temporary access will be created. Working platforms will be used either side of the new outfall headwall and discharge spillway sufficient to afford firm access. It is likely that sheet piling will be installed where necessary around the hardstanding and working area in order to protect the worksite from scour or flooding.
Programme of works	To be as agreed in Condition 5.2.1

<b>Site 3 - Comwich Wharf</b>	
Site location	Comwich Wharf is located within the River Parrett.
<b>Activity 3.1 - Comwich Wharf refurbishment and extension - construction</b>	
Activity type	Construction, alteration and improvement of works, including removal of existing works.

Activity location	Licensed activities will be undertaken in accordance with the co-ordinates at schedule 3 of this licence. Further details regarding the location of each activity will also be provided in accordance with licence condition 5.2.49.
Description	Refurbishment and extension of Combwich Wharf (on the River Parrett) may include; partial demolition and removal of redundant features, extension/refurbishment of the not always afloat but safely aground (NAABSA) berth, refurbishment of an Abnormal Loads Quay (ALQ), removal and re-instatement of berthing dolphins, installation of a new pontoon, the refurbishment of an existing slipway and separate access ramp. The construction of a goods wharf is no longer required.
Methodology	<p>The following are indicative methodologies only. Full activity details will be agreed in accordance with licence condition 5.2.49.</p> <p>The ALQ will be refurbished. This structure is designed to receive and unload the abnormal indivisible loads (AILs). The ALQ may comprise a gravity retaining wall, piled heavy-duty pavement formed from concrete slabs and concrete block paving, dock fender system, dockside furniture, surface water drainage system, access and safety walkways/ladders, local navigational aids and a perimeter fence and permanent and removable guard rails. Refurbishment of the ALQ may involve: construction of temporary and permanent berms (rock armour and/or stone) or alternative structures, excavating obstructions, piling of a combi wall or similar, construction of concrete cope capping beam and pavement, temporary use of scaffolding, and installation of culverts under rock berms and refurbishment of existing structures and equipment. Silt removal and dredging will also be required (see licensed activities 3.2 and 3.3).</p> <p>A heavy duty flexible berth bed maybe created, designed to receive NAABSA vessels. The berth bed will be located immediately to the east of the ALQ in the bed of the River Parrett and will be constructed using an engineered rock fill and geotextile system to achieve a top level of +2.3m ODN. If refurbished, the barge berthing bed will have an approximate footprint of up to 85 x 32m (plus revetment) and the finished surface would be a reinforced concrete slab.</p> <p>Creation/extension and refurbishment of the NAABSA berth may involve: dredging/de-silting (see activities</p>

	<p>3.2-3.4), removal of a plastic matting system across the existing revetment and reprofiling to the permanent works line, placement of temporary support of the existing revetment, installation of a new matting system following reprofiling of the revetment, sheet piling, soil stabilisation, placement of rock armour, installation of berth bed retaining structure and infilling/refurbishment of the existing berth bed, including temporary hardstanding and temporary navigation marks, as required. Preliminary bulk excavation works could take place to modify the existing ground level across the revetment and berth bed using traditional excavation plant. Excavated materials would be processed on land.</p> <p>An existing crane base and up to nine existing mooring dolphins and monopiles may be demolished, with up to six new mooring dolphins and a footbridge from the wharf to the dolphins installed.</p> <p>As a result of the goods wharf no longer being required, the existing revetment may be altered, including a new access ramp. The existing revetment would be excavated utilising land based machinery. Soft material would be removed to enable the revetment to be stabilised using a combination of granular material or soil stabilisation which would be topped with a retaining product such as geotechnical mattresses or cementitious grout filled bags. A new access ramp may be installed utilising a similar approach but this will be surfaced with a concrete pavement.</p> <p>A Combwich Motor Boat and Sailing Club (CMBSC) mooring chain previously removed will be reinstated by lowering the mooring chain by crane to connect to the existing chain and new sheet pile wall at either end. Refurbishment of the existing pontoon/installation of a new CMBSC pontoon, and the refurbishment of an existing slipway may also be required.</p>
Programme of works	To be agreed in accordance with licence condition 5.2.1.
<b>Activity 3.2 - Combwich Wharf refurbishment and extension - capital dredging</b>	
Activity type	Navigational dredging (capital)
Activity location	Licensed activities will be undertaken in accordance with the co-ordinates at schedule 3 of this licence. Further details regarding the location of each activity will also be provided in accordance with licence condition 5.2.49 and 5.2.54

Description		To facilitate the creation of the ALQ and the construction of the NAABSA berth, dredging is required.	
Quantities			
Start date	End date	Material	Quantity (m3)
07/6/2013	31/12/2080	Silt (31.25-62.5um)	8000
Methodology		<p>The following are indicative methodologies only. Full activity details will be agreed in accordance with licence condition 5.2.49 and 5.2.54</p> <p>Refurbishment works associated with the creation of the ALQ may require capital dredging in the Combwich Pill. Up to 4,000m<sup>3</sup> will be removed using excavation plant from land, cutter suction dredging and/or water injection/plough dredging by excavator or vessel. Silts will be displaced into the River Parrett with harder material brought to land (and measures employed for potential re-use or transfer off-site to an appropriate licenced waste facility).</p> <p>The construction of the NAABSA berth bed and revetment may require excavation of up to 4,000m<sup>3</sup>. Capital dredging will be undertaken using water injection, cutter suction or plough (via excavator or vessel) for the loose transient silts, with more compacted material likely removed by backhoe dredger or excavation plant working from the berth or land. Silts will be displaced into the River Parrett with harder material brought to land (and measures employed for potential re-use or transfer off-site to an appropriate licenced waste facility).</p> <p>A maximum of 8,000m<sup>3</sup> material will be capital dredged in total.</p>	
Programme of works		To be agreed in accordance with licence condition 5.2.1.	
Activity 3.3 - Combwich Wharf refurbishment and extension - maintenance dredging			
Activity type		Navigational dredging (maintenance)	
Activity location		Licensed activities will be undertaken in accordance with the co-ordinates at schedule 3 of this licence. Further details regarding the location of each activity will also be provided in accordance with licence condition 5.2.49 and 5.2.54.	
Description		To facilitate the creation of the ALQ and the construction of the NAABSA berth, dredging is required.	



Quantities			
Start date	End date	Material	Quantity (m3)
07/6/2013	31/12/2080	Silt (31.25-62.5um)	22000
Methodology		<p>The following are indicative methodologies only. Full activity details will be agreed in accordance with licence condition 5.2.49 and 5.2.54</p> <p>Works associated with the refurbishment of the ALQ and existing finger pier may also require further localised maintenance dredging of transient silts within the Pill, to allow access for piling plant along the Pill. Up to 4,000m<sup>3</sup> will be removed. Methods may include using excavation plant from land, cutter suction dredging and/or water injection/plough dredging by excavator or vessel. Silts will be displaced into the River Parrett with harder material brought to land (and measures employed for potential re-use or transfer off-site to an appropriate licenced waste facility).</p> <p>Ongoing maintenance removal of silt from the existing berth bed prior to and during refurbishment may also be required to ensure a safe working area for refurbishment operations. Dredging may be undertaken using water injection, cutter suction or plough (via excavator or vessel). Up to 18,000m<sup>3</sup> will be removed, with up to 3000m<sup>3</sup> per campaign. Silts will be displaced into the River Parrett (noting that this can include moving material around on the berth bed) with harder material removed and disposed of on land via appropriate disposal routes.</p> <p>A maximum of 22,000m<sup>3</sup> material will be maintenance dredged in total.</p>	
Programme of works		To be agreed in accordance with licence condition 5.2.1.	
<b>Activity 3.4 - De-silting activities at Comwich Wharf prior to refurbishment</b>			
Activity type		Navigational dredging (maintenance)	
Activity location		The existing berth bed area at Comwich Wharf, as per licence schedule 5.	
Description		<p>Prior to the refurbishment and extension of Comwich Wharf, 5-6 barge deliveries of Abnormal Indivisible Loads are proposed to be delivered to Comwich Wharf between February and October 2019. To ensure safe operation of the berth during deliveries, the existing berth bed at Comwich Wharf requires de-silting prior to barge arrival to facilitate safe berthing of the barge.</p>	

		At the time of issuing variation number 6 to this marine licence on 20 December 2019, this activity has been completed.	
Quantities			
Start date	End date	Material	Quantity (m3)
17/4/2019	31/10/2019	Silt (31.25-62.5um)	8700
Methodology		<p>De-silting activities at Combwich Wharf will be achieved using either water injection or plough dredging. A maximum of up to 8,700m<sup>3</sup> silt will be moved in total, with up to 2,700m<sup>3</sup> moved in the first campaign and up to 1,200m<sup>3</sup> in each subsequent individual campaign.</p> <p>The first, initial de-silting activity will be undertaken using water injection dredging from a vessel. Water pumps aboard the vessel will be connected to a series of nozzles on a horizontal jet bar. The jet bar and nozzles will be deployed over the side of the vessel close to the sediment. Seawater, extracted from the River Parrett in the vicinity of the vessel, will be passed through the system and inject, via the nozzles, large volumes of water at low pressure directly onto the sediment build up. This will re-suspend the sediment which will be carried away from the site by the natural current of the River Parrett. Depending upon the volume of sediment to be moved, this activity will be carried out over a number of tidal cycles. A maximum of 450m<sup>3</sup> of sediment could be cleared by this method per tidal cycle.</p> <p>Both water injection and plough dredging may also be used during the same campaign, if deemed necessary.</p> <p>No material shall be physically removed, i.e. by barge or other means, and taken from the River Parrett to be disposed of elsewhere. De-silting activities will be undertaken during the ebb tide only, so tidal currents will disperse / transport dredged material naturally from the berth bed area, with sediment either redeposited within the River Parrett or flushed out into the wider Bristol Channel.</p>	
Programme of works		<p>De-silting activities will be undertaken between the April 2019 and 31st October 2019.</p> <p>A maximum of six de-silting campaigns will be undertaken, approximately one week prior to each barge delivery, if required. Each clearance campaign would take place on an approximately six-weekly cycle. The maximum duration for each individual de-silting campaign will be six days,</p>	

with berth bed clearance activities not occurring between 22:00 and 06:00.

## **5 Licence conditions**

### **5.1 General conditions**

#### **5.1.1 Notification of commencement**

The licence holder must notify the MMO prior to the commencement of the first instance of any licensed activity. This notice must be received by the MMO no less than five working days before the commencement of that licensed activity.

#### **5.1.2 Licence conditions binding other parties**

Where provisions under section 71(5) of the 2009 Act apply, all conditions attached to this licence apply to any person who for the time being owns, occupies or enjoys any use of the licensed activities for which this licence has been granted.

#### **5.1.3 Agents / contractors / sub-contractors**

The licence holder must notify the MMO in writing of any agents, contractors or sub-contractors that will carry on any licensed activity listed in section 4 of this licence on behalf of the licence holder. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity.

The licence holder must ensure that a copy of this licence and any subsequent revisions or amendments has been provided to, read and understood by any agents, contractors or sub-contractors that will carry on any licensed activity listed in section 4 of this licence on behalf of the licence holder.

#### **5.1.4 Vessels**

The licence holder must notify the MMO in writing of any vessel being used to carry on any licensed activity listed in section 4 of this licence on behalf of the licence holder. Such notification must be received by the MMO no less than 24 hours before the commencement of the licensed activity. Notification must include the master's name, vessel type, vessel IMO number and vessel owner or operating company.

The licence holder must ensure that a copy of this licence and any subsequent revisions or amendments has been read and understood by the masters of any vessel being used to carry on any licensed activity listed in section 4 of this licence, and that a copy of this licence is held on board any such vessel.

#### **5.1.5 Changes to this licence**

Should the licence holder become aware that any of the information on which the granting of this licence was based has changed or is likely to change, they must notify the MMO at the earliest opportunity. Failure to do so may render this licence invalid and may lead to enforcement action.

### **5.1.6 Licence quantities**

Where a licensed activity comprises dredging or the disposal of dredged material, the total quantity of material authorised to be dredged or disposed of in any given time period shall be as set out for that licensed activity in section 4 of this licence.

For each time period, the actual quantity dredged or disposed of shall be calculated by adding the quantity of material dredged or disposed of during that time period under this version of this licence to that dredged or disposed of under any previous version of this licence that was valid during that time period.

## 5.2 Project specific conditions

This section sets out project specific conditions relating to the licensed activities as set out in section 4 of this licence.

Project wide conditions	
Programming	
5.2.1	<p>No activity shall commence until a detailed and up-to-date programme of works for that activity is submitted to and approved by the MMO. The programme should include:</p> <ul style="list-style-type: none"> <li>(a) a planned timetable for each activity</li> <li>(b) timings for mobilisation of plant and for delivery of materials by sea</li> <li>(c) a plan for notifying the MMO of the commencement and cessation of activities and phases of activities, and</li> <li>(d) a plan for notifying the MMO of changes to or slippage within the programme, this should include updates to the programme of works at least once every six months or in such other time as may be agreed by the MMO.</li> </ul> <p>Reason: <i>To allow for the efficient regulation of all licensed activities associated with the project.</i></p>
Cross-shore rock platform erosion and sediment transport	
5.2.2	<p>Activities 1.1 to 1.9 inclusive shall not commence until a cross-shore rock platform erosion and sediment transport monitoring plan has, after consultation with Natural Resources Wales, Natural England and the Environment Agency, been submitted to and approved by the MMO. The plan should include:</p> <ul style="list-style-type: none"> <li>(a) the geographical extent of the monitoring which shall include, but is not limited to, the intertidal shore fronting the HPC development site, the 'pocket beach' at the junction between the existing and proposed sea wall defences (Hinkley Point A and Hinkley Point C interface), the offshore intake and outfall heads, the jetty head and all associated dredged areas</li> <li>(b) arrangements for monitoring of the cross-shore rock platform fronting the HPC development site to seaward to quantify platform lowering during the operation of the nuclear power station</li> </ul>

	<p>(c) arrangements for sediment transport monitoring before, during and after construction, describing the mobile bed (non-suspended) sediment load and distribution, unless otherwise agreed by the MMO</p> <p>(d) appropriate contingency measures that would be implemented having regard to the results of the monitoring referred to in (b) and (c) together with the trigger points at which such measures would apply</p> <p>(e) monitoring arrangements associated with the offshore intake and outfall heads, jetty heads and associated dredged areas, and</p> <p>(f) the monitoring methodology, frequency of monitoring and format of monitoring reports.</p> <p>Reason: <i>To inform understanding of the impacts, if any, on the physical environment and to protect the marine environment</i></p>
<b>5.2.3</b>	<p>The cross-shore rock platform erosion and sediment monitoring plan referred to in condition 5.2.2 shall be implemented as approved.</p> <p>Reason: <i>To inform understanding of the impacts, if any, on the physical environment and to protect the marine environment</i></p>
<b>Pollution control</b>	
<b>5.2.4</b>	<p>No activity shall commence until a marine pollution contingency plan for that activity has been submitted to and approved by the MMO. The plan should include:</p> <p>(a) consideration of potential sources and pathways of marine pollution during the carrying on of the activities</p> <p>(b) details of how instances of marine pollution - in particular oil, fuel or chemical spills - will be reported to the MMO</p> <p>(c) references to other relevant plans and procedures, for example, construction and environmental management plans or environmental management systems, and</p> <p>(d) contact details of persons dealing with marine pollution for or on behalf of the licence holder.</p> <p>Reason:</p>

	<i>To protect the marine environment from pollution incidents.</i>
<b>5.2.5</b>	The marine pollution contingency plan referred to in condition 5.2.4 shall be implemented as approved.  Reason: <i>To protect the marine environment from pollution incidents.</i>
<b>5.2.6</b>	The licence holder must ensure that all chemicals utilised are selected from the list of notified chemicals assessed for use by the offshore oil & gas industry under the Offshore Chemicals Regulations 2002 (this list can be sourced on <a href="http://www.cefas.co.uk">www.cefas.co.uk</a> ) or has gone through a similar level of ecotoxicological hazard/risk assessment.  Reason: <i>To protect the marine environment from hazardous materials.</i>
<b>5.2.7</b>	The licence holder must ensure that any coatings/treatments utilised are suitable for use in the marine environment and are used in accordance with best environmental practice, (e.g. approved by Health and Safety Executive and in line with Environment Agency Pollution Prevention Control Guidelines).  Reason: <i>To protect the marine environment from hazardous materials.</i>
<b>5.2.8</b>	The licence holder must install bunding and/or storage facilities to contain and prevent the release of fuel, oils, and chemicals associated with plant, refuelling and construction equipment, into the marine environment. i.e. secondary containment should be used with a capacity of not less than 110% of the containers storage capacity.  Reason: <i>To protect the marine environment from hazardous materials.</i>
<b>5.2.9</b>	The licence holder must ensure that all wastes are stored in designated areas that are isolated from surface water drains, open water and bunded to contain any spillage.  Reason: <i>To protect the marine environment from hazardous materials.</i>



<b>5.2.10</b>	<p>Excluding activities at Combwich Wharf, the licence holder must ensure that only treated wash water compliant with the EA Water Discharge Activity Permit may be discharged into the marine environment. Except for activities taking place offshore, concrete and cement mixing and washing areas should be contained and sited at least 10 metres from any watercourse or surface water drain to minimise the risk of runoff entering a watercourse.</p> <p>Reason: <i>To protect the marine environment from hazardous materials</i></p>
<b>5.2.11</b>	<p>The licence holder must ensure that if concrete is to be sprayed in the vicinity of the marine environment (e.g. during activities 1.9 or 3.1.) suitable protective sheeting is provided to prevent rebounded or windblown concrete from entering the water environment. Rebound material must be cleared away before the sheeting is removed.</p> <p>Reason: <i>To protect the marine environment from hazardous materials.</i></p>
<b>5.2.12</b>	<p>The licence holder must ensure that any equipment, temporary structures, waste and/or debris associated with a licensed activity are removed within 6 weeks of completion of the licensed activity or relevant phase of the licensed activity.</p> <p>Reason: <i>To prevent the accumulation of detritus.</i></p>
<b>5.2.13</b>	<p>The licence holder must ensure that any rock material used is from a recognised source.</p> <p>Reason: <i>To protect the marine environment from hazardous materials.</i></p>
<b>Piling</b>	
<b>5.2.14</b>	<p>The installation of piles associated with activities 1.1 to 1.9 must use the best practice methods, including the use of soft start techniques, equivalent to or better than those outlined in the Report to Inform the Habitats Regulations Assessment.</p>

	<p>Soft-start procedures must be used for at least 20 minutes to ensure an incremental increase in pile power over a set period of time until full operational power is achieved. Should piling cease for at least 10 minutes the soft-start procedures must be repeated.</p> <p>Reason: To allow mobile sensitive receptors to move away from the noise source.</p>
Transshipment and sea deliveries	
<b>5.2.15</b>	<p>The licence holder must ensure that any vessels used for rock/shingle transshipment or other delivery operations are suitably constructed and loaded to prevent material falling over the side by accident. Suitable screening should be used to prevent rock/shingle loss through drainage holes.</p> <p>Reason: <i>To reduce the risk of materials being lost at sea and to aid in their recovery should losses occur</i></p>
<b>5.2.16</b>	<p>The licence holder must ensure that sea going tug or tugs capable of towing the barges to be used in a loaded condition can be made available within any given 12 hour period to tow such barges to sheltered waters in adverse weather conditions.</p> <p>Reason: <i>To reduce the risk of materials being lost at sea and to aid in their recovery should losses occur.</i></p>
<b>5.2.17</b>	<p>The licence holder must report all dropped objects to the MMO using the Dropped Object Procedure Form as soon as reasonably practicable and in any event within 24 hours becoming aware of an incident.</p> <p>On receipt of the Dropped Object Procedure Form, the MMO may require relevant surveys to be carried out by the licence holder (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the licence holder's expense.</p> <p>Reason: <i>To reduce the risk of materials being lost at sea and to aid in their recovery should losses occur.</i></p>
Notifications	

<b>5.2.18</b>	The local MMO officer must be notified at least 5 days prior to the commencement of any activity or phase of any activity.  Reason: <i>To allow for the efficient regulation of all licensed activities associated with the project.</i>
<b>5.2.19</b>	The local MMO officer must be notified no more than 10 days following completion of any activity or phase of any activity.  Reason: <i>To allow for the efficient regulation of all licensed activities associated with the project.</i>

<b>Activity number: 1.1 - Capital Dredging</b>	
Prior to the activity	
<b>5.2.20</b>	No phase of the dredging activity shall commence until the activity details have been submitted to and approved by the MMO. The details should include:  (a) location of the dredge area for that phase, which may only be located within the areas set out in Schedule 4. (b) start and end dates of that phase of the dredging activity (c) dredging methodology and detailed method statement (d) volume of material to be dredged (e) contractors to be used, and (f) vessels to be used.  Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i>
<b>5.2.21</b>	Each phase of the dredging activity shall be carried on only in accordance with the approved details referred to in condition 5.2.20.

	Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i>
Following the activity	
<b>5.2.22</b>	All dredged material from activity 1.1 of this licence must only be disposed to a licensed disposal site within the Severn Estuary Special Area of Conservation.  Reason: <i>To maintain the sediment budget of the area.</i>
<b>5.2.23</b>	Within 6 weeks of the completion of a dredging activity or phase of a dredging activity, the licence holder shall notify the MMO of the actual volume of dredged material and the location in which the dredged material was disposed of.  Reason: <i>To inform the MMO of activities happening in the marine area.</i>

### Activity number: 1.2 - Maintenance Dredging

#### Prior to the activity

<b>5.2.24</b>	No phase of the dredging activity shall commence until the activity details have been submitted to and approved by the MMO. The details should include:  (a) location of the dredge area for that phase, which may only be located within the areas set out in Schedule 4. (b) start and end dates of that phase of the dredging activity (c) dredging methodology and detailed method statement (d) volume of material to be dredged (e) contractors to be used, and (f) vessels to be used.
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	Reason: Reason: To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.
<b>5.2.25</b>	Each phase of the dredging activity shall be carried on only in accordance with the approved details referred to in condition 5.2.24.  Reason: Reason: To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.
Following the activity	
<b>5.2.26</b>	All dredged material from activity 1.2 of this licence must only be disposed to a licensed disposal site within the Severn Estuary Special Area of Conservation.  Reason: To maintain the sediment budget of the area.
<b>5.2.27</b>	Within 6 weeks of the completion of a dredging activity or phase of a dredging activity, the licence holder shall notify the MMO of the actual volume of dredged material and the location in which the dredged material was disposed of.  Reason: To inform the MMO of activities happening in the marine area.

### Activity number: 1.3 - Drilling of vertical shafts

<b>5.2.28</b>	No phase of the drilling activity shall commence until the activity details have been submitted to and approved by the MMO. The details should include: (a) location of that phase of the drilling activity (b) start and end dates of that phase of the drilling activity (c) drilling methodology and detailed method statement (d) navigational lighting to be used on plant
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	<p>(e) contractors to be used, and</p> <p>(f) vessels to be used.</p> <p>Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i></p>
<b>5.2.29</b>	<p>Each phase of the drilling activity shall be carried on only in accordance with the approved details referred to in condition 5.2.28.</p> <p>Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i></p>

#### Activity number: 1.4 - Deposition of drill arisings

<b>5.2.30</b>	<p>Drill arisings may only be deposited at the sites set out in Schedule 4.</p> <p>Reason: <i>To ensure materials are only placed at a location assessed as being suitable for their placement.</i></p>
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#### Activity number: 1.5 - Disposal of tunnel boring equipment

<b>5.2.31</b>	<p>No tunnel boring shall commence until estimates of the activity details have been submitted to and approved by the MMO. The details should include:</p> <p>(a) date of disposal</p> <p>(b) location of the disposal, including depth beneath the sea bed, and</p> <p>(c) the materials to be disposed of, including any oil, fuel or chemicals.</p> <p>Confirmation of exact details as set out at (a), (b) and (c) above should be provided to the MMO within two weeks of the completion of tunnel boring.</p>
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	Reason: <i>To inform the MMO of activities happening in the marine area and to ensure an accurate record is maintained of materials placed under the seabed.</i>
<b>5.2.32</b>	The disposal of tunnel boring equipment shall be carried on only in accordance with the approved details referred to in condition 5.2.31.  Reason: <i>To inform the MMO of activities happening in the marine area and to ensure an accurate record is maintained of materials placed under the seabed.</i>

#### Activity number: 1.6 - Installation of offshore intake and outfall heads

##### Prior to the activity

<b>5.2.33</b>	No development shall commence until the following activity details have, following consultation with Natural Resources Wales, Natural England, English Heritage and the Environment Agency, been submitted to and approved by the MMO. The details shall include:  (a) the location and design (size and shape) of the offshore intake and outfall heads (b) the alignment (horizontal and vertical) of the cooling water intake and outfall tunnels, and (c) the location and design of the fish recovery and return system and the low velocity side entry intakes, which shall be in accordance with the Environment Agency guidance referenced in the Environmental Statement (Volume 2, chapter 2, paragraph 2.6.21).  Reason: <i>To protect the marine environment.</i>
<b>5.2.34</b>	No development shall commence until the following activity details have been submitted to and approved by the MMO. The details should include:  (a) start and end dates for each installation

	<p>(b) installation methodology and detailed method statement</p> <p>(c) navigational lighting to be used on plant, and</p> <p>(d) vessels to be used.</p> <p>Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i></p>
<b>5.2.35</b>	<p>The installation of offshore intake and outfall heads shall be carried on only in accordance with the approved details referred to in condition 5.2.34.</p> <p>Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i></p>
Prior to water abstraction	
<b>5.2.36</b>	<p>No water abstraction shall commence until the offshore intake and outfall heads, cooling water intake and outfall tunnels, the fish recovery and return system, the low velocity side entry intakes and the acoustic fish deterrent system have been installed in accordance with the approved details referred to in conditions 5.2.35 and 5.2.43.</p> <p>Reason: <i>To protect the marine environment.</i></p>
<b>5.2.37</b>	<p>No water abstraction shall commence until a monitoring and adaptive measures plan has, after consultation with the Natural Resources Wales, Natural England and the Environment Agency, been submitted to and approved by the MMO. The plan will set out:</p> <p>(a) the performance level to be maintained by the acoustic fish deterrent system associated with the cooling water intakes to be confirmed through trials and the fish recovery and return system, during the operation of Unit 1 and Unit 2</p> <p>(b) the monitoring arrangements for the trialling of the acoustic fish deterrent system and the fish recovery and return system during commissioning of Unit 1 and Unit 2, in respect of the performance levels set in (a) above</p>



	<p>(c) the monitoring arrangements for the acoustic fish deterrent system and the fish recovery and return system during operation of Unit 1 and Unit 2, in respect of the performance levels set in (a) above</p> <p>(d) the additional adaptive measures arising from (a), (b) and (c) that may be required during operation of Unit 1 and Unit 2, the conditions where such measures would apply and the process for their implementation, and</p> <p>(e) the monitoring methodology, frequency of monitoring and format of monitoring reports.</p> <p>Reason: <i>To protect the marine environment.</i></p>
<b>5.2.38</b>	<p>The development shall be operated in accordance with the approved details referred to condition 5.2.37.</p> <p>Reason: <i>To protect the marine environment.</i></p>

#### Activity number: 1.7 - Installation of fish return outfall head

<b>5.2.39</b>	<p>No development shall commence until the following activity details have been submitted to and approved by the MMO. The details should include:</p> <p>(a) start and end dates for the installation</p> <p>(b) installation methodology and detailed method statement, which shall consider the potential for archaeological interests at the site and how findings will be reported</p> <p>(c) navigational lighting to be used on plant, and</p> <p>(d) vessels to be used.</p> <p>Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i></p>
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<b>5.2.40</b>	<p>The installation of the fish return outfall head shall be carried on only in accordance with the approved details referred to in condition 5.2.39.</p> <p>Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i></p>
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#### Activity number: 1.8 - Installation of fish deterrent system

<b>5.2.41</b>	<p>The acoustic fish deterrent system shall not be installed until details of the location and design have, following consultation with the Natural Resources Wales, Natural England and the Environment Agency, been submitted to and approved by the MMO.</p> <p>Reason: <i>To protect the marine environment.</i></p>
<b>5.2.42</b>	<p>The installation of the acoustic fish deterrent system shall be carried on only in accordance with the approved details referred to in condition 5.2.41.</p> <p>Reason: <i>To protect the marine environment.</i></p>

#### Activity number: 1.9 - Seawall construction

<b>5.2.43</b>	<p>No development shall commence until the activity details have been submitted to and approved by the MMO. The details should include:</p> <ul style="list-style-type: none"> <li>(a) start and end dates</li> <li>(b) detailed method statement</li> <li>(c) materials to be used</li> </ul>
---------------	--

	<p>(d) access routes and working areas, and (e) contractor details.</p> <p>Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i></p>
<b>5.2.44</b>	<p>The construction of the seawall shall be carried on only in accordance with the approved details referred to in condition 5.2.43.</p> <p>Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i></p>
<b>Activity number 1.9 - Rock Armour Delivery</b>	
<b>5.2.45</b>	<p>No development shall commence until the activity details have been submitted to and approved by the MMO. The details must include:</p> <ul style="list-style-type: none"> <li>a) start and end dates</li> <li>b) detailed method statement</li> <li>c) plant/vessels to be used</li> <li>d) access routes and working areas, and</li> <li>e) contractor details</li> </ul> <p>Reason: <i>To inform the MMO of the activities happening in the marine area and to ensure appropriate methods are used.</i></p>
<b>5.2.46</b>	<p>The delivery of the rock armour shall be carried on only in accordance with the approved details referred to in condition 5.2.45.</p> <p>Reason: <i>To inform the MMO of the activities happening in the marine area and to ensure appropriate methods are used.</i></p>

**Activity number: 2.1 - Junction 23 scour protection**

<b>5.2.47</b>	<p>No development shall commence until the activity details have been submitted to and approved by the MMO. The details should include:</p> <ul style="list-style-type: none"> <li>(a) method statement</li> <li>(b) start and end dates</li> <li>(c) working hours</li> <li>(d) materials to be used</li> <li>(e) access routes and working areas, and</li> <li>(f) contractor details.</li> <li>(g) consideration of any new protected sites that may have come into effect since the 2011 ES.</li> </ul> <p>Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i></p>
<b>5.2.48</b>	<p>The construction of the scour protection shall be carried on only in accordance with the approved details referred to in condition 5.2.47.</p> <p>Reason: <i>To inform the MMO of activities happening in the marine area and to ensure appropriate methods are used.</i></p>

**Activity number: 3.1 - Comwich Wharf refurbishment and extension – construction**

<b>5.2.49</b>	<p>Activity details must be submitted to the MMO at least 6 weeks prior to the commencement of the licensed activities, unless otherwise agreed by the MMO. The details must include:</p> <ul style="list-style-type: none"> <li>(a) location of the activity, which may only be located within the area set out in Licence Schedule 3;</li> <li>(b) detailed method statement including mitigation measures;</li> </ul>
---------------	--

	<p>(c) timings and duration;</p> <p>(d) materials to be used;</p> <p>(e) access routes and working areas;</p> <p>(f) lighting requirements.</p> <p>The licensed activities must not commence until written approval is provided by the MMO.</p> <p>Reason: <i>To ensure that the method is within the scope of the assessed activities.</i></p>
<b>5.2.50</b>	<p>Licensed activities must be undertaken in accordance with the approved details referred to in condition 5.2.49.</p> <p>Reason: <i>To ensure that environmental impacts and associated mitigation measures are in line with those assessed for the licensed activities.</i></p>
<b>5.2.51</b>	<p>Licensed activities must be undertaken in accordance with the details approved under DCO requirements J2 (Shelduck and non-breeding birds monitoring and mitigation schemes), C2 (Shelduck and non-breeding birds monitoring and mitigation schemes), and C3 (Combwich intertidal monitoring and contingency plan).</p> <p>Reason: <i>To minimise impacts on birds.</i></p>
<b>5.2.52</b>	<p>Waste concrete, slurry or wash water from concrete or cement activities must not be discharged, intentionally or unintentionally, into the marine environment. Concrete and cement mixing and washing areas must be contained and sited at least 10 metres from any water body or surface water drain.</p> <p>Reason: <i>To avoid damage to the marine environment by concrete wash water contamination which is highly alkaline and contains high levels of suspended sediment.</i></p>

<b>5.2.53</b>	<p>All construction and demolition activities must only be undertaken between the hours of 08:00 and 19:00 Monday to Friday (excluding public holidays) and 08:00 and 13:00 hours on Saturdays, unless otherwise approved by Sedgemoor District Council.</p> <p>Activities excluded from these working hours restrictions comprise non-intrusive and internal activities, such as start-up and shut-down, electrical installation, building fit-out and non-destructive testing.</p> <p>Reason: <i>To minimise impacts on migratory fish.</i></p>
---------------	---

**Activity number: 3.2 and 3.3 - Combwich Wharf refurbishment and extension - capital dredging and maintenance dredging**

<b>5.2.54</b>	<p>A dredge protocol must be submitted to the MMO at least 6 weeks prior to the commencement of the dredging activities, unless otherwise agreed with the MMO. The content of the dredge protocol must be agreed with the MMO, and must cover both capital and maintenance dredging activities.</p> <p>Dredging activities must not commence until written approval is provided by the MMO.</p> <p>Reason: <i>To control the introduction of sediment into the Parrett Estuary and minimise impacts of dredging activity on fish.</i></p>
<b>5.2.55</b>	<p>Dredging activities must be undertaken in accordance with the approved details referred to in condition 5.2.54.</p> <p>Reason: <i>To ensure that environmental impacts and associated mitigation measures are in line with those assessed for the licensed activities.</i></p>
<b>5.2.56</b>	<p>Within 6 weeks of the completion of a dredging activity or phase of a dredging activity, the licence holder shall notify the MMO of the volume of dredged material and the location in which the dredged material was disposed of.</p> <p>Reason:</p>

	<i>To ensure the licensed activities are undertaken in line with the scope of the assessed activities.</i>
<b>5.2.57</b>	<p>Excluding those undertaken at low tide, de-silting activities (dredging not involving the removal of sediment) will be undertaken during the ebb tide only.</p> <p>Reason: <i>To ensure tidal currents disperse / transport dredged material naturally from the area, with sediment either redeposited within the River Parrett or flushed out into the wider Bristol Channel.</i></p>
<b>5.2.58</b>	<p>Any large items of man-made material dislodged by the de-silting activities must be separated from the dredged material and disposed of to land.</p> <p>Reason: <i>To minimise the amount of man-made materials disposed of at sea.</i></p>

#### **Activity number: 3.4 - De-silting activities at Comwich Wharf prior to refurbishment**

<b>5.2.59</b>	<p>Local mariners and fishermen's organisations must be made fully aware of the activity through a local Notice to Mariners. This must be issued at least 5 days before the commencement of the works.</p> <p>The MMO must be sent a copy of the notification within 24 hours of issue.</p> <p>Reason: <i>To ensure other vessels in the vicinity can safely plan and conduct their passage</i></p>
<b>5.2.60</b>	<p>No more than 8,700m<sup>3</sup> silt must be moved in total.</p> <p>Reason: <i>To ensure the licensed activities are undertaken in line with the scope of the application assessed.</i></p>
<b>5.2.61</b>	<p>Any large items of man-made material dislodged by the de-silting activities must be separated from the dredged material and disposed of to land.</p>

Reason:

*To minimise the amount of man-made materials disposed of at sea.*



## **6 Compliance and enforcement**

This licence and its terms and conditions are issued under the Marine and Coastal Access Act 2009.

Any breach of the licence terms and conditions may lead to enforcement action being taken. This can include variation, revocation or suspension of the licence, the issuing of an enforcement notice, or criminal proceedings, which may carry a maximum penalty of an unlimited fine and / or a term of imprisonment of up to two years.

Your attention is drawn to Part 4 of the Marine and Coastal Access Act 2009, in particular sections 65, 85 and 89 which set out offences, and also to sections 86, 87 and 109 which concern defences. The MMO's Compliance and Enforcement Strategy can be found on our website (<https://www.gov.uk/government/publications/compliance-and-enforcement-strategy>).



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## APPENDIX 14L DCO DRAFTING NOTE 11

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**APPENDIX 14L - DCO DRAFTING NOTE 11**

**ECOLOGICAL MONITORING REQUIREMENT**

**RESPONSE TO ExQ1: DCO 1.78**

1. **PLEASE WILL THE APPLICANT COLLATE WHERE THE ES SETS OUT THE NEED AND CONTENT OF ECOLOGICAL MONITORING WHICH IS REFERRED TO IN [R4]? PLEASE WILL IT ALSO EXPLAIN HOW R4 COMPLIES WITH THE NEED FOR EIA PRIOR TO DECISION IN THE LIGHT OF R V. CORNWALL CC, EX P HARDY ENV L.R. 25; [2001] JPL 786?**

**Need and content of ecological monitoring**

- 1.1 The requirement imposed by R4 as originally drafted was to submit for approval prior to commencement a terrestrial ecology monitoring plan to reflect the monitoring included in the Environmental Statement, and thereafter to carry out the plan as approved. As a result of further work with relevant stakeholders (including Natural England, Royal Society for the Protection of Birds, East Suffolk Council and Suffolk County Council), SZC Co has defined the terrestrial ecological monitoring to inform the associated mitigation that will be deployed to respond to impacts on sites, habitats and species and produced the Terrestrial Ecology Monitoring and Mitigation Plan ("TEMMP") which was submitted at Deadline 1 [\[REP1-016\]](#).
- 1.2 It is anticipated that the TEMMP will be further updated (if required) and finalised during the examination timetable to align with any updates to the draft protected species licences such that it will be capable of being secured as a control document rather than deferring approval until prior to the commencement of certain authorised works under the DCO. SZC Co therefore has proposed an amendment to R4 so that it now requires the construction, operation and removal and reinstatement of the authorised development to be carried out in accordance with the TEMMP unless otherwise approved by East Suffolk Council following consultation with RSPB and Natural England.
- 1.3 The Applicant has submitted a thorough and detailed assessment of the likely significant effects arising from the Sizewell C Project as a whole on sites, habitats and species. This assessment is comprised in the Environment Statement (ES) (Book 6), the ES Addendum (Doc Ref. 6.14), the Shadow Habitat Regulations Assessment (sHRA) [APP-145to APP-152] and sHRA Addendum (Doc. Ref. 5.10Ad 2). These documents include various commitments to undertake ecological monitoring and mitigation which are reflected in the TEMMP, and other documents secured in the DCO including the Sizewell C Project's Code of Construction Practice (CoCP) (Doc. Ref. 8.11(B)).
- 1.4 Table A below collates the references to where the ecological monitoring and mitigation referred to in the ES is located.

**Table A**

REF	Section	Page Number
Main Development Site		
APP-224	14.7.d ii)	88 onwards
	14.8 d ii)	127 onwards
	14.9 d	133 onwards
	14.10 d iii)	142 onwards
	14.11 d ii)	153 onwards
	14.12 d ii)	218 onwards



REF	Section	Page Number
	14.13 d iii)	342 onwards
	14.14 d iii)	363 onwards
Northern Park and Ride		
APP-363	7.7 b)	62 onwards
Southern Park and Ride		
APP-394	7.7 b)	51 onwards
Two village bypass		
APP-425	7.7 b)	85 onwards
Sizewell link road		
APP-461	7.7 b)	74 onwards
Yoxford and other highway improvement works		
APP-494	7.4 d) ii)	52 onwards
Rail infrastructure		
APP-555	7.7 b)	71 onwards

- 1.5 The assessment is complete, and includes both the prediction of likely significant effects, the identification of proposed mitigation measures, and the prediction of residual effects once those mitigation measures are taken into account.
- 1.6 In addition, the Applicant has prepared and submitted the TEMMP [\[REP1-016\]](#). so that the ExA and IPs can make an informed judgement on the likely efficacy of the monitoring and mitigation measures that would be secured by R4. The TEMMP has been informed by the surveys and assessments carried out in connection with the ES and ES Addendum, the sHRA and sHRA Addendum, draft mitigation strategies, draft licences and their relevant method statements as summarised at para 1.1.2 of the TEMMP.
- 1.7 The purpose of R4 is therefore to secure the appropriate mitigation measures described and assessed in the ES (Book 6) and ES Addendum (Doc. Ref. 6.14), the sHRA report [APP-145 to APP-152] and the sHRA addendum (Doc. Ref. 5.10Ad 2), and thereby to ensure that the effects on sites, habitats and species do not exceed those that have been assessed, and in cases where a significant adverse effect is predicted (for example, barbastelle bats) that the residual effect is reduced to "not significant".

#### **EIA prior to decision**

- 1.8 The TEMMP secured by R4, and the gathering of information by means of the resultant monitoring, is not proposed because it is thought necessary to enable the Secretary of State to ascertain whether significant effects are likely as a result of the proposed development. There is already ample information to enable an informed judgement to be reached on that matter.
- 1.9 The purpose of the plan is to define the terrestrial ecological monitoring to inform the associated mitigation that will be deployed to respond to impacts on sites, habitats and species as a result of the Sizewell C Project, and to monitor the effectiveness of such mitigation. R4 does not therefore give rise to any conflict with the principle established in the *ex p Hardy* case.
- 1.10 The courts have made clear that the issue addressed in *ex p Hardy* is to be distinguished from circumstances in which the purpose of the relevant provision is to gather information



after the grant of consent so as to inform mitigation measures etc. A condition or requirement imposed for the latter purpose is entirely lawful and legitimate (see *R v. Rochdale MBC, ex p. Milne* [2001] Env LR 22, per Sullivan J at paras. 114 and 132; *R (Jones) v. Mansfield DC* [2003] EWHC 7 (Admin); and *R (PPG 11 Ltd.) v. Dorset County Council* [2003] EWHC 1311).

1.11 **Why is the terrestrial ecology monitoring plan confined to the works listed on R4? Should it not be required for all the Works?**

Requirement 4 has been redrafted as a Project-wide Requirement that needs to be complied with during construction, operation and removal and reinstatement of the authorised development.



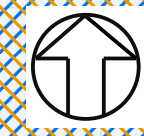
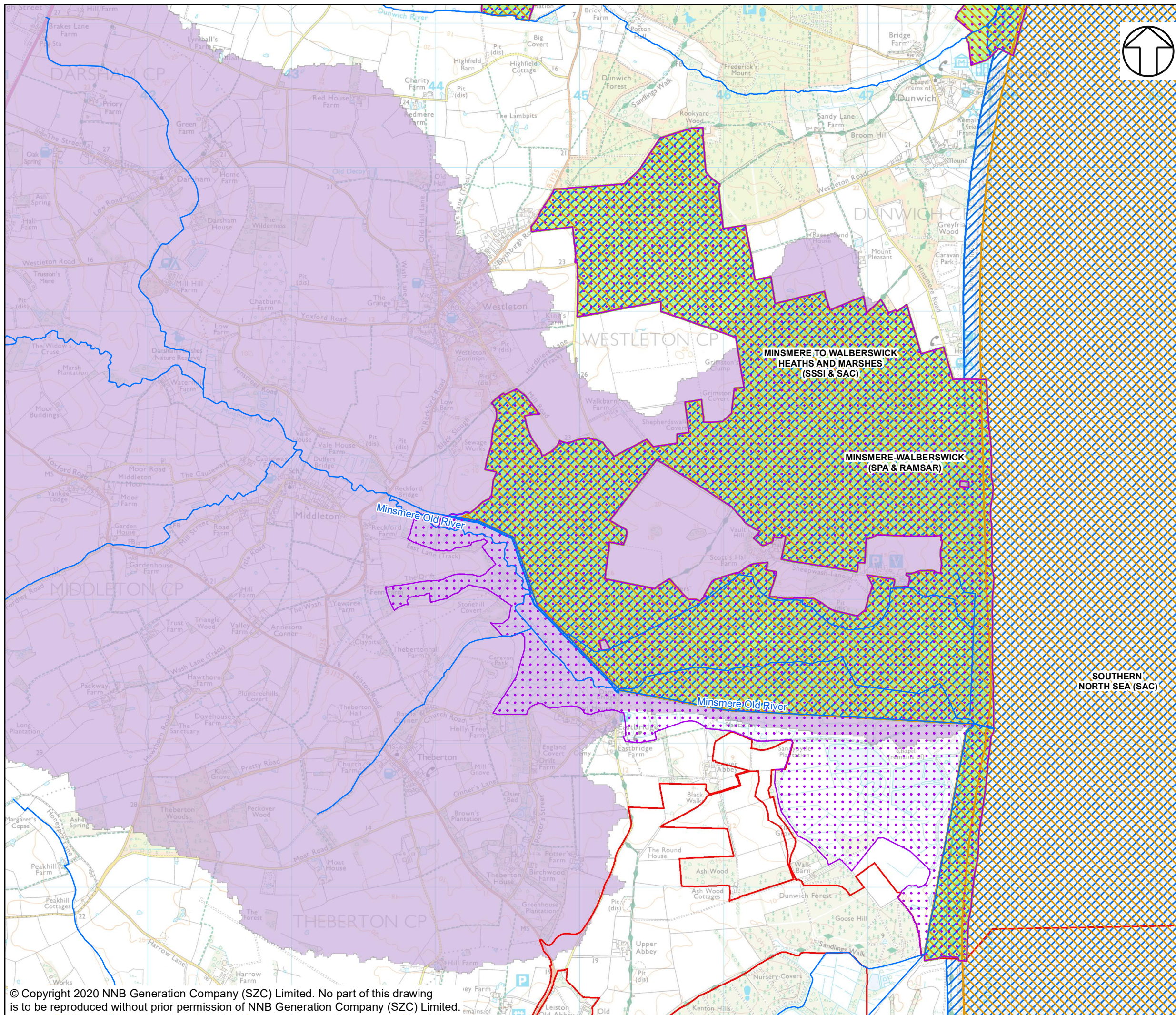
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**APPENDIX 15A RESPONSE TO QUESTION FR.1.29,  
UPDATED FIGURE 2.8 OF THE WFD COMPLIANCE  
ASSESSMENT**

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- NOTES**
- KEY**
- SIZEWELL C MAIN DEVELOPMENT SITE BOUNDARY
  - - - DEMARCATION LINE
- DESIGNATIONS**
- SITE OF SPECIAL SCIENTIFIC INTEREST (SSSI)
  - ▨ SPECIAL AREA OF CONSERVATION (SAC)
  - ▨ SPECIAL PROTECTION AREA (SPA)
  - RAMSAR
- WFD RIVER WATER BODY CATCHMENTS**
- MINSMERE OLD RIVER WFD RIVER WATER BODY CATCHMENT
  - MAIN RIVER

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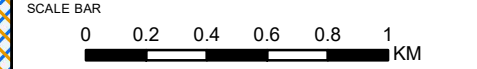


**DOCUMENT:**  
 SIZEWELL C  
 WFD COMPLIANCE ASSESSMENT  
 PART 2: MAIN DEVELOPMENT SITE  
 STAGE 3: FURTHER ASSESSMENT

**DRAWING TITLE:**  
 RED LINE BOUNDARY AGAINST  
 MINSMERE OLD RIVER WATER BODY

**DRAWING NO.:**  
 FIGURE 2.8

**DATE:** MARCH 2020      **DRAWN:** J.T.      **SCALE:** 1:25,000 @A3





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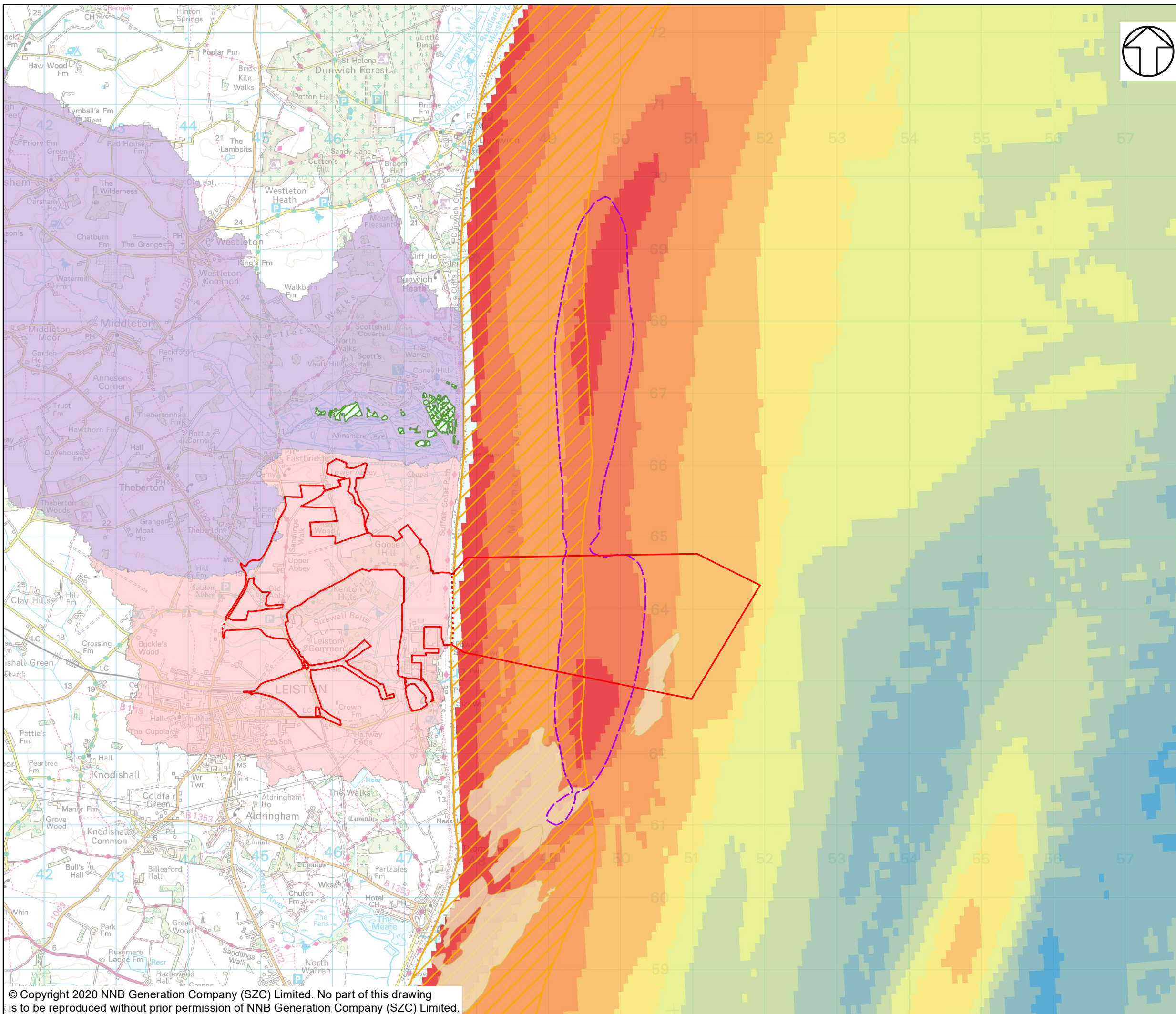
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APPENDIX 15B RESPONSE TO QUESTION FR.1.30,  
UPDATED FIGURE 2.9 OF THE WFD COMPLIANCE  
ASSESSMENT

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**NOTES**

**KEY**

- SIZEWELL C MAIN DEVELOPMENT SITE BOUNDARY
- - - DEMARCATION LINE
- CORALINE CRAG
- SIZEWELL DUNWICH BANK
- SUFFOLK WFD COASTAL WATER BODY
- WALBERSWICK MARSHES WFD COASTAL WATER BODY
- LEISTON BECK WFD RIVER WATER BODY CATCHMENT
- MINSMERE OLD RIVER WFD RIVER WATER BODY CATCHMENT

**BATHYMETRY**

**DEPTH (M)**

- Below -29
- 26 to -29
- 23 to -26
- 20 to -23
- 17 to -20
- 14 to -17
- 11 to -14
- 8 to -11
- 5 to -8
- Above -5

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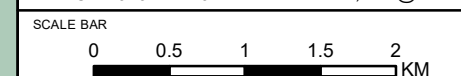


DOCUMENT:  
SIZEWELL C  
WFD COMPLIANCE ASSESSMENT  
PART 2: MAIN DEVELOPMENT SITE  
STAGE 3: FURTHER ASSESSMENT

DRAWING TITLE:  
MAIN MORPHOLOGICAL FEATURES  
OF SIZEWELL BAY

DRAWING NO:  
FIGURE 2.9

DATE: MARCH 2020      DRAWN: J.T.      SCALE: 1:50,000 @A3





SIZEWELL C PROJECT -  
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## APPENDIX 15C RESPONSE TO QUESTION FR.1.69

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## 1 RESPONSE TO FR.1.69

### 1.1 Introduction

- 1.1.1 Explained below are the underlying principles and bases for SuDS and how implementation is considered in current guidance, aligned with the level of design required for the project at this stage and how this can be interpreted in terms of certainty.

## 2 THE SUSTAINABLE DRAINAGE (SUDS) PHILOSOPHY FOR THE SIZEWELL C PROJECT

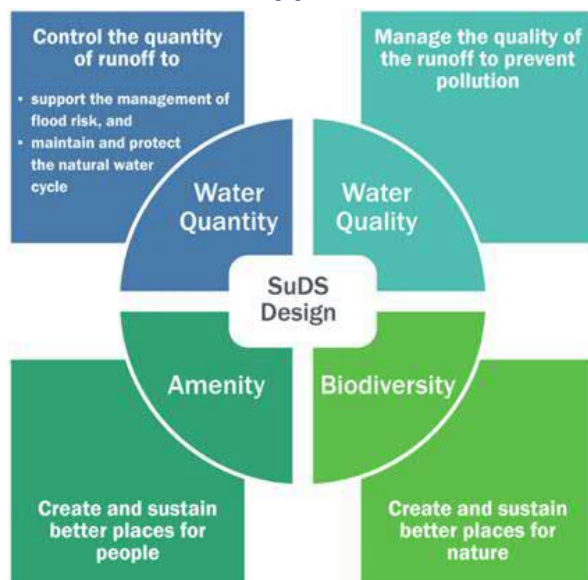
### 2.1 The SuDS Approach

- 2.1.1 The approach taken within the **Outline Drainage Strategy** (ODS) [[APP-181](#)] is based on the following guidance in the SuDS Manual (CIRIA Report C753), Part A: Executive Summary (page 6). The approach taken for the Sizewell C Project aligns fully with this guidance.

*“Sustainable drainage systems (SuDS) are designed to maximise the opportunities and benefits we can secure from surface water management. There are four main categories of benefits that can be achieved by SuDS: water quantity, water quality, amenity and biodiversity. These are referred to as the four pillars of SuDS design.”*

*SuDS can take many forms, both above and below ground. Some types of SuDS include planting, others include proprietary/manufactured products. In general terms, SuDS that are designed to manage and use rainwater close to where it falls, on the surface and incorporating vegetation, tend to provide the greatest benefits. Most SuDS schemes use a combination of SuDS components to achieve the overall design objectives for the site.”*

### Plate 2.1: SuDS Approach



## 2.2 Mimicking Nature

- 2.2.1 SuDS mimic nature and typically manage rainfall close to where it falls. SuDS can be designed to transport (convey) surface water, slow runoff down (attenuate) before it enters watercourses, provide areas to store water in natural contours and can be used to allow water to soak (infiltrate) into the ground or evaporated from surface water and lost or transpired from vegetation (known as evapotranspiration).

## 2.3 Local Construction (and non-construction) Employment

- 2.3.1 SZC Co. has sought expert advice from world leading designers and advisors in the use of SuDS. The **ODS** [APP-181] has been developed using these premier consultant organisations and the team includes professionals who have produced award winning SuDS projects as well as serving on steering groups on Standards development, and on Defra Project Advisory boards for national government.

---

### 3 THE UNDERLYING OBJECTIVES TO PROTECT THE ENVIRONMENT

#### 3.1 Designated habitats

3.1.1 The proposed development is bounded by important environmental habitats that must be protected. The approach taken within the **ODS** [[APP-181](#)] is to protect these habitats and to cause minimal disruption to these sites. SZC Co. has adopted techniques that will return water to the environment as soon as possible and will enable consistency in quality in reaching sensitive habitats. SZC Co. has applied the methodologies promoted within the SuDS Manual.

#### 3.2 Flooding

3.2.1 The Lead Local Flood Authority (LLFA) is chiefly responsible for the protection of the area from surface water flooding. The approach taken towards managing quantities of runoff and conveyance of storm water has been developed in consultation with stakeholders with interests in flood management. These include Suffolk County Council (the LLFA), East Suffolk Internal Drainage Board and the Environment Agency.

### 4 THE PRINCIPAL VARIABLES FOR CONSIDERATION IN DESIGN

#### 4.1 Topography

4.1.1 The main development site (MDS) varies from the inland marshes of the Sizewell Marshes SSSI to more topographically raised agricultural farmland further inland. The associated development (AD) sites are topographically variable and in general located further from environmentally sensitive areas, but closer to urbanised areas.

#### 4.2 Hydrology

4.2.1 The hydrology of the area is typical of the South East of England; it is a comparatively dry area and therefore prone to water shortage but can also suffer from thermal storms which create highly intense storms.

## 4.3 Geological Acceptance of rainfall/runoff

4.3.1 Across the MDS the rate at which rainfall is absorbed is considerably variable. It ranges from very low values in the coastal marshes where the ground water levels are at or very near the surface. As the MDS moves up to the agricultural areas the acceptance of water is much greater and there are areas where there is low evidence of watercourses indicating a large acceptance into the ground in sandy soils. The AD sites cover quite a large and varied area but are more consistent with the normal agricultural or semi urban type of strata rather than the marshland areas of some parts of the MDS.

## 5 THE PRINCIPLES OF RUNOFF MANAGEMENT APPERTAINING TO THE SIZEWELL C PROJECT

### 5.1 Local (Source Control) Management

5.1.1 The principles of SuDS design encourage the use of local management as close as possible to where the rainfall lands. Across all of the sites the use of Local SuDS management has been applied in a variety of different methods such as filter strips, ditches and swales. This encourages the water to be returned to the environment as soon as possible. Where ground conditions show good acceptance of runoff the rainwater is absorbed and where the acceptance levels are less, the water will run to outfall positions to be returned to the natural environment at greenfield runoff rates.

### 5.2 Regional management

5.2.1 At times of longer return period storms the water will run through the local management systems and discharge into the detention basins, where it will be gradually absorbed or released back to the natural environment at appropriate greenfield discharge rates.

### 5.3 Extreme conditions

5.3.1 The project sites have been designed to absorb water arising from an extreme rainfall event. When construction on site is commenced, installation of the detention basins will be prioritised to protect the site from large rainfall events. Prior to the installation of the detention basins, temporary emergency controls would be in place to manage the design flows. In either case, surface water must be managed so that a storm event with a return period of 1:100 years including an allowance for



climate change (to allow for anticipated changes in the peak rainfall intensity) could be held on site.

## 5.4 Precautionary Principle

5.4.1 Where appropriate the project makes provision for a further level of control. For the temporary construction area (TCA) on the main development site (MDS) the project includes for a further level of control in the proposal of the temporary marine outfall. Surface water from the TCA would be collected, attenuated and discharged to ground or local watercourses under normal conditions. However, the Sizewell Marshes (including the Sizewell Drain) are known to flood occasionally due to either extreme rainfall events or other external factors, such as the Leiston Drain downstream being blocked or the Minsmere Sluice inhibiting surface water flow to sea. In these scenarios, discharging to the backed-up Sizewell Drain in these conditions may not be considered suitable, even if restricted to greenfield runoff rates. Another option for discharging surface water should be considered, and therefore a temporary marine outfall has been proposed which would discharge to sea, to provide redundancy as a precautionary principle.

## 6 THE APPROACH O MANAGING UNCERTAINTY

### 6.1 Infiltration testing

6.1.1 A key factor in understanding whether and how SuDS measures can be used is through an understanding of infiltration. Consequently, SZC Co. has carried out a series of ground investigations which included infiltration testing (i.e. the rate at which water infiltrates into the ground). These investigations were carried out principally in 2014 and 2017, although SZC Co. is currently carrying out additional investigations which include additional infiltration tests. These later tests would inform and further refine the inputs to the subsequent (post DCO) detailed design stage.

### 6.2 A conservative approach

6.2.1 Infiltration testing results show a variation in infiltration capacity within each of the sites. Therefore a conservative approach was taken for the sizing of the SuDS structures. For the MDS the structures were sized in each of the water management zones on the basis of the “worst case scenario”. By applying this approach the designers could be confident that the sizing of the SuDS structures was likely to be larger than needed. The same approach has been taken for the road schemes where preliminary designs have been shared with SCC and the EA in a series of design

review meetings. An equivalent conservative approach has also been used across the remaining AD sites although the evolution of these designs is less advanced.

### 6.3 Appreciation of gradual and increased learning with improved data

6.3.1 As the knowledge has improved with further testing, the latest results showed that the sites did in fact have improved opportunities for infiltration in a number of areas. As the design has developed it has been possible to predict the sizing of the SuDS features more accurately. This is an ongoing process and will continue as data collection is improved and eventually when site establishment commences the best and most accurate data will be available from occupation of the site and the likelihood is that the space required will further reduce. Updated infiltration data will be provided within a series of drainage technical notes to be provided to the ExA during Examination.

## 7 MANAGING WATER QUALITY

### 7.1 The indices approach

7.1.1 The SuDS Manual referred to above includes useful guidance on how runoff should be managed under different circumstances. This is termed the 'indices approach'. In a construction site as big as for the Sizewell C Project there will be a huge array of different potential polluting areas. Examples include road and construction traffic runoff, concrete batching and storage areas. Each one of these conditions can notionally have a SuDS approach which incorporates a vegetative (natural) approach.

### 7.2 Why in certain circumstances is robustness needed to strengthen the approach?

7.2.1 Whilst there are SuDS (sometimes called wetlands) that can clean and dissipate almost any contamination, it is sometimes necessary to use a proprietary/manufactured product. These tend to be 'off the shelf' products that can be installed quickly. These offer a level of performance that is quantified in manufacturer's literature and provide a level of certainty from past performance that is not immediately offered by vegetative solutions in the early months. The aim for the Sizewell C Project is to utilise as many SuDS vegetative approaches as possible for not only water management but also water quality reasons. Water quality protection needs to be in place from Day 1 of the site establishment. SuDS quality approaches can take time to establish (sometimes 12 to 18 months) and they tend to be

increasingly effective over time. They also need monitoring to prove their effectiveness. Hence, in order to achieve immediate water quality protection a level of pragmatism is needed, and proprietary products will inevitably have a role to play. Protection of the environment is paramount and in time SUDS solutions will become established, but circumstances dictate that they may need help. Consequently, the adoption of proprietary products is not considered to represent a reduction in implementation of SuDS, but instead as complementary.

## 8 LEVEL OF CERTAINTY

- 8.1.1 Applying many variables to every abstract condition means that obtaining absolute certainty at the consenting stage is not possible, which is the case for all major infrastructure projects. This is the driving tenet behind 'risk-based' design.
- 8.1.2 SZC Co. considers that the proposed approach for the Sizewell C Project, including the commitment to SuDS, is entirely appropriate and fully represents the commitments SZC Co. has made through engagement with stakeholders at workshops that have taken place in 2019-2021.
- 8.1.3 The conservative approach outlined in Section 5 above means that SZC Co. is very confident that the SuDS approach can be implemented within the areas set aside at an early stage of design.
- 8.1.4 One further measure of SZC Co.'s commitment to SuDS is in the proportion of land assigned to surface water management by means of SuDS measures. The MDS will employ SuDS in approximately 352 ha of land within an approximate overall area of 391 ha. This represents surface water runoff from 90% of the land mass will either infiltrate at source or drain via at least one SuDS feature. The remaining 10% is predominantly in the main platform area where surface water must be captured and conveyed by conventional drainage systems only. A drainage technical note will be provided to the ExA during Examination with additional information on the sizing of the Water Management Zone infiltration basins of the MDS.
- 8.1.5 There is one small area within the LEEIE that cannot be drained by gravity and at this stage the current proposal would utilise a pump. SZC Co. has taken on board comments from stakeholders, and the drainage protocols in this area adopt a 100% SuDS approach. A drainage technical note will be provided to the ExA during Examination with additional information on the basic drainage design for LEEIE.

8.1.6 The AD sites such as the Sizewell link road and other road schemes follow the same SuDS approach and designers have engaged with stakeholders in the assessment of runoff. In some instances there have been challenges due to low infiltration rates and the remoteness of appropriate watercourses. As explained in the **Second Notification of Proposed Project Changes** (Doc Ref. 9.27), SZC Co. is intending to consult on an alternative gravity solution. Nevertheless, the ODS concept is maintained to manage the runoff and release to the environment at agreed greenfield rates by using SuDS structures.

8.1.7 The park and ride sites and the freight management facility are less developed in terms of design but in each case the SuDS approach follows the same concept detailed in the foregoing.

## 9 SUDS WILL BE IMPLEMENTED THROUGHOUT THE SIZEWELL C PROJECT

9.1.1 This response makes it clear that the basis for drainage is to implement a clear sustainable approach across the whole of the Sizewell C Project. The entire drainage strategy approach for rainwater management is founded on SuDS principles and the protection of the environment whilst at the same time protecting from flooding.

9.1.2 SZC Co.'s approach is founded on local SuDS management such as swales ditches and filter drains, backed up with regional SuDS to manage longer return period (i.e. larger) events.

9.1.3 The main construction site will be present for a decade or more and will change its appearance over that time. This SuDS approach means that the site can react to change and be adaptable. This would not be possible with traditional methods of infrastructure such as drainage using pipes and manholes.

9.1.4 Not only are SuDS good for the land and environment and protection of nature, they enable a flexible approach that is an opportunity for more effective surface water management.

9.1.5 A SuDS philosophy is a deliberate and conscious strategic approach by SZC Co. that is fundamental to runoff management for the Sizewell C Project.



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## APPENDIX 18A RESPONSE TO QUESTION LI.1.0

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## PLATES

**None provided**

## FIGURES

**None provided**

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## Note

This note refers to the Design and Access Statement, submitted within the draft DCO submission, using reference [[APP-586](#)]. The Design and Access Statement submitted as part of the draft DCO submission comprises 3 documents. These are:

- **AP-585** 8.1 Main Development Site Design and Access Statement Part 1 of 3
- **AP-586** 8.1 Main Development Site Design and Access Statement Part 2 of 3
- **AP-587** 8.1 Main Development Site Design and Access Statement Part 3 of 3

Three additional Design and Access Statement documents have been submitted which are not directly referred to in this note. These are:

- **AS-261** Additional Submission in relation to the Applicant's request for changes to the application and Additional Information - 8.1 Main Development Site Design and Access Statement Addendum - Revision 1.0
- **REP1-005** Deadline 1 Submission - 8.1 Main Development Site Design and Access Statement Second Addendum - Revision 1.0.
- **Doc Ref. 8.1Ad2 (A)** Deadline 2 Submission - 8.1 Main Development Site Design and Access Statement Second Addendum - Revision 2.0.

## 1 APPENDIX 18.A RESPONSE TO QUESTION LI.1.0

### 1.1 ExA Question LI.1.0

*Design is a matter which is cross-cutting in relation to multiple topics identified within the Initial Assessment of Principal Issues. Please explain the design approach and design credentials of the Main Development Site and Associated Development Sites. Reference should be made to the objectives listed in section 4.5 of NPS EN-1 and how the proposed development seeks to address or exceed the expectations of good design as set out in the National Design Guide. Whilst noting that the NPS is the primary source of policy under which applications will be considered, reference should also be made to policy within the National Planning Policy Framework (NPPF) which stipulates good design.*

*In addition, please also have regard to 'Design Principles for National Infrastructure', published by the National Infrastructure Commission (February 2020) in respect of Climate, Places, People and Value in construction, operation and where relevant, decommissioning.*

### 1.2 SZC Co. Response

1.2.1 SZC Co. agrees that design is a cross cutting matter, and our proposals represent the work of a collaborative approach between all design team disciplines and the operations team to deliver a design proposal that addresses the objectives in NPS EN- 1 section 4.5 and the expectations of good design outlined in:

- National Design Guide
- NPPF
- Design Principles for National Infrastructure

1.2.2 The design approach for the project is set out in two documents submitted as part of our DCO submission: The Main Development Site Design and Access Statement [\[APP-586\]](#) including additional updates **[AS-261 Additional Submission in relation to the Applicant's request for changes to the application and Additional Information - 8.1 Main Development Site Design and Access Statement Addendum - Revision 1.0 and REP1-005 Deadline 1 Submission - 8.1 Main Development Site Design and Access Statement Second Addendum - Revision 1.0]**



which includes our Project Design Principles; and the Associated Development Site Design Principles document [[APP-589](#)]. These documents are referred to in response to Question LI.1.0, with additional commentary provided in relation to the specific publications referred to in the question.

1.2.3 The Main Development Site (permanent operational development) design approach is outlined in the **Design and Access Statement (DAS)** [[APP-586](#)] for both buildings, structures and landscape design in the following sections:

- Section 3 – Project requirements
- Section 4 – Consultation and Evolution of Design
- Section 5 – Design Principles
- Section 6 – Site Response - Delivering Good Design
- Section 7 – 7I – Design of Buildings, structures, infrastructure, and Lighting
- Section 8 – Landscape Proposals
- Section 9 – Site Access

1.2.4 The design approach for the Temporary Accommodation Campus is outlined in Appendix A of the Design and Access Statement [[APP-586](#)].

1.2.5 The design approach for the Associated Development Sites is outlined in the Associated Development Site Design Principles document [[APP-589](#)].

## 1.3 Design Credentials

1.3.1 Design credentials for the Main Development Site

- The proposals for buildings and landscape have been designed by leading and award-winning designers in their respective professions who have worked with SZC Co. consistently over a number of years to evolve the design governance strategy and the design proposals.
- The design proposals have been subject to 4 stages of pre-application consultation and reflect a genuine front loaded consultation process that has influenced the design proposals. The process of design iteration and evolution is recorded in Section 4 of the **Design and Access Statement (DAS)** [[APP-586](#)].

- Design Principles for the Main Development Sites has been developed in consultation with the local authorities and other stakeholders and set the framework to which the final detailed design of the associated development sites will adhere.
- The written responses from East Suffolk Council in relation to design matters include positive endorsement of the principles, elements of the main building design, the proposed approach to cladding colour and the long term naturalisation of the SZC Co estate:

*“ESC has a large number of positive comments in relation to the proposed design principles that have been submitted in relation to the project, these will not all be included in this document but will be shared with SZC Co. as they contain useful detail on how best to consult us and use our expertise should the design of the development progress to construction with a positive outcome for the DCO.”* **ESC Written Rep Para 5**

*“Provided that the anticipated intention to return the EDF Energy Sizewell estate to what is substantially acid grassland and lowland heath, plus woodland, hedgerow planting, then that must be regarded as a notable enhancement of the AONB landscape, although it will take many years before it is fully realised.”* **ESC Written Rep Para 154**

*“In relation to building design the following is noted for example in relation to the OSD ‘The figure illustrated here does show a refined and sophisticated approach with depth of thought and consideration applied to ensure a good design outcome.’* **ESC Written Rep ‘Design’ page 46**

*“It is agreed that the use of a muted colour palette for the recreation building is appropriate. This structure (and others) needs to be restrained in its appearance, particularly given its impressive scale..... it is judged that the Colour Strategy that is outlined here is well considered and one that we can subscribe to.”* **ESC Written Rep ‘Design’ page 47**

- The proposals were subject to two rounds of design review with the Design Council which positively endorsed the design process including the response to the landscape context, governance, and design proposals. Consultation with the Design Council is described

in Section 4 of the Design and Access Statement and correspondence from the Design Council is provided in Appendix B of the Design and Access Statement. [\[APP-586\]](#)

- The landscape strategy has been prepared in tandem with the ecological strategy for the main development site and estate and has secured approximately 18% Biodiversity Net Gain for the estate representing a significant enhancement over and above national infrastructure targets for new project at 10%.

### 1.3.2 Design credentials for the Associated Development Sites

- The Design Principles for the Associated Development Sites have been developed in consultation with the local authorities and other stakeholders and set the framework to which the final detailed design of the associated development sites will adhere.
- The Associated Development Design Principles include requirements to comply with best practice in relation to a number of key areas of design, including reference to the Design Manual for Roads and Bridges, British Standards and other best practice guidance at the time of the design for all highway design; the suite of Network Rail standards and the Governance for Rail Investment Projects process, and best practice guidance at the time of the design for all rail design; and Institution of Lighting Professionals Guidance for all lighting design.

## 1.4 Design Approach: Response to Objectives of Section 4.5 of NPS EN-1

### 1.4.1 Section 4.5 of EN-1 'Criteria for "good design" for energy infrastructure' states:

*"The visual appearance of a building is sometimes considered to be the most important factor in good design. But high quality and inclusive design goes far beyond aesthetic considerations. The functionality of an object ....including fitness for purpose and sustainability, is equally important."*

*"Applying "good design" to energy projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, matched by an*

*appearance that demonstrates good aesthetic as far as possible.”*

1.4.2 Section 4.5 adds detail to these strategic criteria:

a) Sustainability:

*“energy infrastructure developments [should be] sustainable and, having regard to regulatory and other constraints, [be] as attractive, durable and adaptable (including taking account of natural hazards such as flooding) as they can be.”*

b) Fitness for purpose:

*“the applicant [should take] into account both functionality (including fitness for purpose and sustainability) and aesthetics (including its contribution to the quality of the area in which it would be located) as far as possible.”*

c) Contextual response:

*“there may be opportunities for the applicant to demonstrate good design in terms of siting relative to existing landscape character, landform and vegetation.”*

*“The design and sensitive use of materials in any associated development such as electricity substations will assist in ensuring that such development contributes to the quality of the area.”*

d) Documented process:

*“applicants should be able to demonstrate in their application documents how the design process was conducted and how the proposed design evolved.”*

e) Design review:

*“applicants should consider taking independent professional advice on the design aspects of a proposal. In particular, Design Council CABE can be asked to provide design review for nationally significant infrastructure projects and applicants are encouraged to use this service.”*

f) Safety and Security:

*EN-1 adds that “in applying the above principles to applications for the development of nuclear power stations, the need to ensure the safety and security of the power station, and the need to control the impacts of its operations, must be given substantial weight given the importance of these factors to the operation of a nuclear power station.”*

1.5 Project alignment with EN-1 Section 4.5

1.5.1 SZC Co's. approach to good design aligns with the objectives of Section 4.5 of EN-1 and is recorded under the headings described above:

a) Sustainability

1.5.2 The application is supported by the Design and Access Statement. Chapter 3 Project Requirements, at section 3.10 refers to Sustainability and Environmental Design as part of Project Requirements and Chapter 11 [\[APP-586\]](#) records how sustainability and climate change have been addressed and taken into account in the project design. Additional Sustainability Principles are now proposed and are detailed in the Design and Access Statement update **[REP1-005 Deadline 1 Submission - 8.1 Main Development Site Design and Access Statement Second Addendum - Revision 1.0]**. Chapter 11 refers to the Sustainability Statement also submitted with the application [\[APP-617\]](#) which presents the findings of a project level sustainability appraisal which considers how sustainability has been integral to the development of the Sizewell C Project proposals. The appraisal is structured against relevant themes and objectives developed from the Government's own Appraisal of Sustainability (AoS) framework for new nuclear power stations (Ref. 1.1). These have been used to evaluate project performance and have also helped to identify further sustainability principles to be taken forward as the Sizewell C Project progresses.

1.5.3 The overall purpose of the **Sustainability Statement** is to demonstrate how the Sizewell C Project aligns with the sustainable development policies and best practice and identify policies for further improvement.

1.5.4 The Statement sets out the policy context for the approach to sustainability recorded in Section 1 of the Design and Access Statement and recognises the different definitions of sustainability referencing the common objective in paragraph 1.4.2, 'striking the balance between social, economic and environmental objectives to meet the needs and aspirations of people

today, without compromising the needs of future generations'; at paragraph 1.4.3 recognising the UN Sustainable Development Goals; and the legislative requirements embodied in the Planning Act 2008 [Ref 1.14] that the project must comply with. The Statement also refers to national and local policy informing the project approach.

1.5.5 Section 2.2 of the **Design and Access Statement** outlines the approach taken to embedding sustainability into the proposals and lists matters to be taken into account in making a balanced consideration. The Statement references the Design Principles established to secure 'good design' and inform the design process and how these support the sustainability objectives. A set of sustainability themes and objectives have been defined [section ref 2.3.3] and are outlined in **Table 1.1** of the Design and Access Statement and have underpinned the project strategy and design process.

1.5.6 The project sustainability themes comprise:

- Climate Change Mitigation and Adaptation
- Resources and Waste
- Movement of People and Materials
- Skills and Employment
- Health and Well - Being
- Community Services
- Biodiversity and Ecosystems
- Water Environment

1.5.7 A summary of each theme is provided in section 11.3 of the **Design Access Statement** [APP-586] and provided in full in the Sustainability Statement. The Statement sets out how each theme has informed the design and is described within a structured format:

- Background
- Policy context incl. mapping of UN SDG principles against SZC Co's sustainability objectives
- SZC Co's Sustainability objectives - making reference where relevant, to the 33 High Level Design Principles recorded in the Design and Access Statement

- Sustainability performance – the objectives are tested against a structured breakdown of the project with each portion of the project reporting performance in relation to the theme:
- Main Development Site – Design of permanent buildings and infrastructure. By example this includes reference to:
  - A no gas powered environment - with a development powered by its own electricity generation.
  - Climate change adaptation for extreme weather events including storm, flood, and drought.
  - Sea level rise – making provision for reasonably foreseeable climate change scenarios.
- Main Development Site – Design of temporary buildings and infrastructure.
- Main Development Site – Construction
- Main Development Site – Operation

1.5.8 Many aspects of sustainable design are controlled by existing regulatory processes and by SZC Co's strategic approach. A key focus has therefore been given to wider resource use issues defined by three Principles supported by a hierarchy of priorities to support ongoing design and delivery. These are summarised in diagrams in the **Design and Access Statement** [\[APP-586\]](#)

- Principle 1 – Design and Construct for a Low Carbon Future
- Principle 2 – Move to a Circular Economy
- Principle 3 – Use Water Wisely

b) **Fitness of purpose**

1.5.9 At a strategic level, the EPR GDA Reactor Technology design which is subject to an extensive regulatory regime in the UK including the GDA process and Government guidelines and in relation to security, approved by the ONR Civil Nuclear Security (CNS). Chapter 3 of the Design and Access Statement describes the Project Requirements and outlines the functional requirements in section 3.9. Section 7, 7A – 7.I describes each element of the built and infrastructure design within the context of the Requirements. At a more detailed level, the Overarching Design Principles described in the Design and Access Statement [\[APP-586\]](#), highlight

relevant fitness for purpose matters to which the design must have regard including:

- Site – Principles 15 and 16
- Structures – Principles 23 and 25
- Safety – Principles 27 – 30

c) **Efficient Use of Natural Resources**

1.5.10 SZC Co.'s environmental policy recognises the Company's duty to care for the environment and the Company will seek continuous improvement in its environmental performance. This includes reducing the environmental effect of its activities by the reduction of waste and the efficient use of resources and promoting the efficient use of energy. The requirements for sustainability and climate change, which promote the efficient use to natural resources, are described in Chapter 11. The principles within the sustainability strategy under resources and waste focus on the sustainable consumption of resources, minimising waste and maximising recycling. The specific sustainability objective, against which the proposals have been appraised, is "to promote the sustainable use of natural resources and apply the principles of the Waste Hierarchy".

1.5.11 A Waste Management Strategy in Appendix 8A of Volume 2 for the Sizewell C Project has been produced and submitted with this Development Consent Order application. This strategy addresses non-radioactive waste arising during construction and operation. The Waste Management Strategy follows the priorities for sustainable waste management set out at paragraph 5.14.2 of NPS EN-1. The key principle detailed throughout the strategy is that waste would be managed in accordance with the waste hierarchy:

- prevention;
- preparing for reuse;
- recycling;
- other recovery, including energy recovery; and
- disposal.

1.5.12 The Waste Management Strategy has the objective to achieve zero waste to landfill and includes associated Key Performance Indicators to help drive this. The Materials Management Strategy in Appendix 3B of Volume 2



explains how the excavated materials generated during construction will be managed, with the aim to maximise the sustainable use of natural sources.

1.5.13 The project has been designed fully cognisant to its context and in direct response to place:

- The design proposal for the main built structures, site layout and landscape proposals are bespoke to the Suffolk coast and the site. By example, in the case of the main nuclear island, the island is smaller in area than HPC to reduce impacts on important habitats within the AONB and the built envelope for the main turbine buildings that has been substantially amended to respond to the surrounding landscape.
- SZC Co. has establishment a set of Design Principles covering a wide range of relevant topics to govern the design evolution up to the Draft DCO submission and beyond, in support of Requirements discharge and detailed submissions.
- SZC Co. have commitment to detailed design where possible and for key elements of the project that are visible from public vantage points whereby design can assist in mitigating adverse landscape and visual effects and represent a response to the local natural and built context.
- The proposals provide a site wide masterplan supported by an oLEMP to deliver a vision for the 600 ha EDF Estate delivering a 'naturalised' landscape setting for the new and existing power stations.

d) Documented Process

1.5.14 The design process for Sizewell C is detailed in the Design and Access Statement which described how the design process was conducted and how the proposed design evolved.

1.5.15 As recorded in **paragraph 13.5.8** in **Volume 2, Chapter 13** (Landscape and Visual) of the **ES** [\[APP-216\]](#), the proposed development has been carefully planned as part of an iterative design process securing input from consultation, ongoing assessment, design review and refinement of the operational design. It notes that the layout of the site, landscape design and the form and design of the proposed structures have been guided by a series of Overarching Design Principles and Detailed Landscape Design Principles and Detailed Built Development Design Principles, which are outlined in the Main Development Site **Design and Access Statement (DAS)** [\[APP-586\]](#).

1.5.16 The Design Principles act as a framework for good design and are presented in Section 5.0 of the Design and Access Statement. Paragraph

5.1.1 records that the evolution and application of the Design Principles for Sizewell C align with the core purposes and ambitions of the National Infrastructure Commission design principles at the time of drafting (see response to NIC guidance below). Paragraph 5.1.2 adds that their development was informed by the site context; project requirements; through a design review by the Design Council CABE; and through consultation. Paragraph 5.1.5 notes that collectively the Design Principles help to define how the project will fulfil the criteria of 'good design' set out in NPS EN-1 and NPS EN-6.

1.5.17 It should be noted that the structure and naming of the Design Principles was altered during drafting of the DCO to simplify the presentation. The purpose and operation of the Design Principles has not however altered from the point of their early establishment.

1.5.18 The structure of the Design Principles is intended to support the presentation of what is inevitably a balanced project design narrative and to illustrate that there are number of factors to be taken into account is progressing design.

1.5.19 Paragraph 5.1.6 of the Design and Access Statement details the distinction between the Overarching Design Principles and Detailed Design Principles. The definitions of these terms are set out in full below:

- Overarching Design Principles: "detailed designs submitted and approved in this application have been informed by the overarching design principles. Alternative designs, or where details have not yet been submitted to the local planning authority for approval, will be informed by the overarching design principles, but they do not control the project."
- Detailed Design Principles: "detailed designs submitted and approved in this application must be carried out in accordance with these design principles. Alternative designs, or where details have not yet been submitted to the local planning authority for approval, must be in general accordance with these design principles. The detailed design principles are sub-divided into those within the main platform and those beyond the main platform..."

1.5.20 The project Design Principles were developed to support the design evolution up to the Draft DCO submission and to secure design governance for the project as elements of design are progressed to detail and for approval and to support discharge of Requirements. With regard to the extent of commitment to detail, SZC Co. has submitted proposals that provide a clear indication of the extent of detailed and parameter based

information for approval with significant detail provided for the main power station elements in particular.

1.5.21 A clear set of Design Principles has been submitted for approval and was agreed with stakeholders to inform any subsequent requirements discharge or scheme alteration that may be necessary in future.

1.5.22 At the request of the local authorities, 3 of the Design Principles were amended to add additional wording, which are included were submitted as part of the Deadline 1 submission [[REP1-050](#)].

e) Design Review

1.5.23 The project has been subject to two independent design reviews undertaken by the Design Council to support the consideration of good design. The feedback from those reviews in recorded in the Design and Access Statement [[APP-586](#)] and was considered in the development of the proposals.

f) Safety and Security

1.5.24 Please refer to the section above 'Fitness of purpose' which outlines the design requirements that the proposal must comply with including reference to the Overarching Design Principles described in the Design and Access Statement [[APP-586](#)], which highlight relevant safety matters to which the design must have regard including: Principles 27 – 30.

## 1.6 Design Approach: Alignment with the National Design Guide including the NPPF references to good design

1.6.1 The National Design Guide (NDG) was first published in October 2019 and amended in January 2021 to align with the National Model Design Code and Guidance Notes for Design Codes, which was published separately and post dates the SZC draft DCO submission.

1.6.2 The NDG sets out the components of good design, the relationship of between national and local guidance and outlines 10 characteristics of good design not only for buildings but for places. SZC Co. consider that the key expectations outlined in the NDG are addressed in the draft DCO submission documentation. The characteristics within the NDG of particular relevance /note include:

- Context
- Identity

- Built form
- Movement
- Nature

1.7 Design Approach: Alignment with the NIC 'Design Principles for National Infrastructure' (in respect of Climate, Places, People and Value in construction, operation and where relevant, decommissioning)

1.7.1 The overarching Design Principles for the main development site are outlined in Section 5 of the **Design and Access Statement (DAS)** [\[APP-586\]](#) and extend across a wide range of relevant topics/ areas of consideration and were first prepared for consultation in 2014. The overarching Design Principles were agreed with key statutory consultees.

1.7.2 The Design Principles were reviewed in the light of the NIC's early guidance on principles 'Developing Design Principles for National Infrastructure' in 2018 and subsequently detailed design principles structured to support design governance for the Requirements discharge process. SZC Co. consider that the key expectations outlined in the NIC's 'Design Principles for National Infrastructure' published in Feb 2020, are adequately addressed in relation to construction, operation, and decommissioning.

1.7.3 The Design and Access Statement [\[APP-586\]](#) comprehensively addresses the role of Design Principles having regard to operational design which is principally addressed in Sections 5 – 9 and 11. Post operational design (decommissioning) is addressed in Section 12.



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## APPENDIX 18B RESPONSE TO QUESTION LI.1.1

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## 1 APPENDIX 18.B RESPONSE TO QUESTION LI.1.1

### 1.1 ExA Question LI.1.1

*It is imperative that the proposal represents a good quality sustainable design which can be effectively integrated into the landscape. As such, please comment on whether the following measures would ensure this would be achieved in the detailed design, construction and operation phases:*

- i) A 'design champion'. Such a role would advise on the quality of sustainable design and the spatial integration of the both the Main Development Site and Associated Development Sites*
- ii) A 'design review panel' to provide a 'critical friend' role. Such a role would provide comment on the development of sustainable design proposals*
- iii) The production of an approved 'design code' or 'design approach document' which would establish the approach to delivering the detailed design specifications to ensure good quality sustainable design (as approved in the Hinkley Point C Connector Project (EN020001)). Please advise on how such measures could be secured. In addition, please comment as to whether any other measures or approaches are considered necessary?*

### 1.2 SZC Co Response

- a) Overview of draft DCO submission matters in relation to design governance

1.2.13 The design proposals for Sizewell C are governed by Parameter Plans, detailed design proposals and by two layers of Design Principles which are submitted for approval as part of the draft DCO submission. Main Development Site design principles are contained within the Design and Access Statement and secured via Requirements 11, 12, 13 and 17. Associated Development Design Principles are contained in the Associated Development Design Principles document [\[APP-589\]](#) which was submitted for approval and is secured via Requirements 18, 20 and 22. Further detail is provided below:

- The Overarching Design Principles for the Main Development Site are defined in Section 6 of the **Design and Access Statement** [\[APP-586\]](#)

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and scheduled in Table 5.1. They have been agreed with key stakeholders during consultation and cover all relevant design considerations. All elements of the operational design proposals have been developed in this context and have in addition, been subject to consultation and an iterative design process. A total of 26 Overarching Design Principles are identified. Section 11 of the **Design and Access Statement** [\[APP-586\]](#) sets out the Sustainability strategy for the project.

- An explanation of how these Design Principles have been applied to building, infrastructure and landscape design is recorded in the **Design and Access Statement** [\[APP-586\]](#).
- Detailed Design Principles are defined in Section 6 of the **Design and Access Statement** [\[APP-586\]](#) and scheduled in Table 5.2 (with 11 Design Principles described for Landscape) and Table 5.3 (with 30 Design Principles described for Built Development). They are intended to govern the detailed design development for elements of the proposal to be submitted for detailed approval / Requirement discharge.

1.2.14 The DCO submission commits SZC Co. to a considerable level of detail for the operational design, appropriate to the significance/scale of the element and in response to and reflecting an appreciation of the landscape character, context, and designation.

1.2.15 Detailed approval: Those elements where SZC Co. seeks detailed approval are listed in section 1.3 - 1 of the **Design and Access Statement** [\[APP-586\]](#) and comprise the majority of the main power station buildings and structures.

1.2.16 Future detailed design approval: Those elements where SZC Co. will submit for detailed design approval are listed in section 1.3 - 2 and 1.3 - 4 of the **Design and Access Statement** [\[APP-586\]](#) and comprise the landscape proposals and a minority of the main power station buildings. The layout, scale and external appearance of the buildings and landscape will be designed:

- in accordance with the parameter plans
- maximum building heights and siting zones
- in general accordance with the Detailed Design Principles set out in table 5.2 (Landscape) and 5.3 (Built Development) of the **Design and Access Statement** [\[APP-586\]](#)



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- 1.2.17 Not for approval: Certain buildings, structures and plant will not be submitted for approval but will be designed in accordance with the Parameter Plans and in general accordance with the Detailed Design Principles.
- 1.2.18 Associated Development proposals: The Associated Development proposals will be carried out in general accordance with the **Associated Development Design Principles** [APP-589], the Parameters Plans for each Associated Development site and the plans for approval, which include the general arrangement plans and the landscape and levels plans. Lighting design, drainage, signage, structures and buildings are not to be submitted for approval.
- 1.2.19 The Accommodation Campus will be carried out in general accordance with the campus Design Principles in **Appendix A** of the **Design and Access Statement** [APP-586] and the Parameter Plans which are submitted for approval.
- b) A 'design champion'
- Such a role would advise on the quality of sustainable design and the spatial integration of the both the Main Development Site and Associated Development Sites*
- 1.2.20 The SZC Co. Planning team will have access to the design team responsible for the operational design proposals of the draft DCO submission in order to inform the adherence to the Design Principles. The exact structure of this design governance will be given further definition.
- 1.2.21 SZC Co. considers that it has defined the quality of project design in the **Design and Access Statement** [APP-586] and **Associated Development Design Principles** [APP-589], made commitments to an appropriate level of detail in response to the site's context, and defined design control mechanism via Detailed Design Principles to support the design development and Requirements discharge for elements not already submitted for approval as part of the draft DCO.
- 1.2.22 The Design Council has recognised the quality of the design and design process in its 2019 design review. SZC Co. does not consider that a 'design champion' is required given the quality of the existing design team and the governance proposed above which will build on a culture of design quality which has been established within the project and which SZC Co. will retain.

**NOT PROTECTIVELY MARKED**

- c) A 'design review panel' to provide a 'critical friend' role.

*Such a role would provide comment on the development of sustainable design proposals.*

- 1.2.23 SZC Co. is in dialogue with East Suffolk Council/Suffolk County Council regarding funding of appropriate planning and design officer resources to properly support the Requirements discharge process for the project. SZC Co. therefore does not anticipate that a design review panel will be required to support the officer team.

- 1.2.24 SZC Co. note that the Design Council suggested a 'follow up' design review for the construction worker campus. SZC Co. suggest that a decision on this matter can be made on the recommendation of the Examining Authority or joint decision of SZC Co. and East Suffolk Council.

- d) The production of an approved 'design code' or 'design approach document'

*The production of an approved 'design code' or 'design approach document' which would establish the approach to delivering the detailed design specifications to ensure good quality sustainable design (as approved in the Hinkley Point C Connector Project (EN020001)). Please advise on how such measures could be secured. In addition, please comment as to whether any other measures or approaches are considered necessary?*

- 1.2.25 The **Design and Access Statement** [\[APP-586\]](#) submitted with the draft DCO, presents a comprehensive explanation of the design approach of the operational Main Development Site and outlines a commitment to quality design via the detailed design submission and design governance expressed via the Parameter Plans and the application of Design Principles, to support the delivery of good quality sustainable design.

- 1.2.26 SZC Co. considers that the level of detail including that provided in the Design Principles, is more extensive than that provided in the Hinkley Point C Connector Project Document 8.2 (**Appendix 2.9.26.1**) 'Design Approach to Site Specific Infrastructure'.

- 1.2.27 SZC Co. does not consider that an additional control document is required. The wording of the Requirements could be agreed to secure sufficient design control for areas of remaining detail design approval, using information within the Design and Access Statement [\[APP-586\]](#) and exiting delivery focused documents.



SIZEWELL C PROJECT -  
RESPONSES TO EXAMINING AUTHORITY'S  
WRITTEN QUESTIONS ISSUED ON 21<sup>ST</sup> APRIL 2021

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## APPENDIX 18C PILLBOX FIELD LANDSCAPE MANAGEMENT PLAN

**NOT PROTECTIVELY MARKED**

SIZEWELL B RELOCATED FACILITIES

# Pillbox Field Landscape Management Plan

PLANNING PERMISSION REFERENCE: DC/19/1673/FUL  
PLANNING CONDITION 12



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# 1. INTRODUCTION

## 1.1 Planning Context

1.1.1 This Landscape Management Plan (LMP) has been prepared in line with the requirements of Condition 12 of the consented Sizewell B relocated facilities planning application (ref. DC/19/1637/FUL).

1.1.2 This LMP relates to specific areas of early planting located within Pillbox Field and does not cover the full extent of the landscape proposals contained within the consented scheme. The additional landscape proposals for the Pillbox Field site will be considered under a revised planning application to be submitted to East Suffolk Council in due course. Drawing SZC-RF0000-XX-000-DRW-100089 shows the extent and details of the proposed early planting areas in Pillbox Field which comprise woodland and scrub planting. This document provides information on the management of these areas in accordance with the following condition.

*Condition 12 - Prior to the above ground construction of the relevant part of the development (other than Permitted Preparatory Works as identified in Informative 1) a landscape plan including the details set out in (i) to (vii) below shall be submitted to and approved by the Local Planning Authority.*

*i. Planting;*

*ii. Management of existing and new planted areas;*

*iii. Restoration of areas affected by construction works;*

*iv. Details of the height, type, size and species of the shrubs and trees to be planted;*

*v. Details of the measures to be taken to create new flora and fauna habitats and of the management of such new habitats;*

*vi. Phasing of works included in the scheme; and*

*vii. Details of protective fencing.*

*The approved plan shall be implemented within the first available planting season after the commencement of above ground construction of the relevant part of the development and appropriately managed and maintained for a minimum period of 5 years, any plant or tree dying within that 5 year timeframe will be replaced.*

*Reason: To ensure proper landscaping for the development and for the protection of semi natural habitats within the development site boundary.*

## 1.2 Scope and Purpose

1.2.1 This document sets out the approach to delivery and subsequent management of the habitats which are illustrated in the submitted drawing (SZC-RF0000-XX-000-DRW-

100089) for a period of five years post implementation. The LMP also briefly sets out the context in terms of broader aims and objectives.

## 1.3 Structure of the document

1.3.1 The LMP is structured as follows:

- Section 2: describes the Site, identifies existing features and summarises its landscape value;
- Section 3: details the development proposals and provides a description of the features to be managed;
- Section 3: sets out the management objectives;
- Section 4: details the anticipated management works / prescriptions required to meet the objectives including ongoing works schedules and monitoring.

## 1.4 Management Framework

1.4.1 Pillbox Field is part of the EDF Energy Estate and is currently managed in accordance with the EDF Energy Estate Pre-Construction Integrated Land Management Plan (ILMP).

1.4.2 The ILMP provides a record of baseline information on the site, and the evaluation of this includes an assessment of significance or value, to produce land management objectives, policies and plans.

1.4.3 The LMP has therefore been written to align with the ILMP and its broader aims and objectives in so far as they are relevant to the habitats and planting typologies which are proposed within Pillbox Field.

1.4.4 The LMP also has alignment with outline Landscape and Ecology Management Plan (oLEMP) which has been submitted as part of the Sizewell C Development Consent Order (DCO); and also accords with the overarching design vision and landscape strategy for the EDF Energy Estate (of which Sizewell C is a subset).

## 2. SITE CONDITION

### 2.1 Site Condition

- 2.1.1 The Pillbox Field site (the Site) is situated at National Grid Reference TM471626, immediately to the west of Sizewell village, Suffolk and covers an area of approximately 7.5ha.
- 2.1.2 The full extent of the site is located within the Suffolk Coast and Heaths AONB and Suffolk Heritage Coast.
- 2.1.3 Pillbox Field comprises former arable farmland that has been allowed to revert to grassland. It is bordered to the north and east by woodland/scrub, and hedgerows along the Sizewell Gap road to the south and Sandy Lane to the west. Sandy Lane is the access track to Rosery Cottages (owned by EDF Energy (NGL)) and forms part of the route of a Bridleway (E-363/019/0) (hereafter referred to as 'Bridleway 19'). Hedgerows and scrub enclose the route along much of its length between the Sizewell Gap and Broom Covert. An area of naturally regenerating willow scrub occupies lower and slightly wetter ground along the southern boundary of Pillbox Field.
- 2.1.4 Pillbox Field is not located within a Conservation Area and does not contain any significant trees or trees with Tree Preservation Orders.



## 3. LANDSCAPE PROPOSALS

### 3.1 EDF Energy Estate Vision

3.1.1 Pillbox Field forms part of the overarching design vision and landscape strategy for the EDF Energy Estate. This has most recently been articulated in the Sizewell C Development Consent Order (submitted in 2020) and is summarised below.

3.1.2 The vision for the landscape is founded on the concept of establishing the Suffolk Coast and Heaths AONB landscape in microcosm by creating a mosaic of some of its most valued landscapes such as extensive Suffolk Sandlings grasslands, areas of farmland, large scale forestry, coastal dunes and shingle ridges and the open sea as well as an appropriate landscape setting for the existing and proposed power station structures, that reflects the way that the existing Sizewell A and Sizewell B structures behave. The design also seeks to reflect a subtle transition from the organised farmland landscape to the west to the more open, expansive and natural coastline and adjacent seascape.

3.1.3 The vision includes the identification of four broad character zones which are used to guide planting and habitat typologies. These character zones are organised in an east west alignment reflecting increasing proximity to the coast and comprise:

- Zone 1 - Estate Sandlands: Farmlands;
- Zone 2 - Estate Sandlands: Dry Sandlings Grasslands;
- Zone 3 - Coastal Levels; and
- Zone 4 - Coastal Dunes and Shingle.

3.1.4 Pillbox Field forms part of the long term vision and landscape strategy for the EDF Energy Estate and is located within 'Zone 2 - Estate Sandlands: Dry Sandlings Grassland'. The following design criteria are identified for this area and have been used to guide the landscape proposals contained within the approved Sizewell B relocated facilities planning application (ref. DC/19/1637/FUL):

- establishment of structural blocks of mixed woodland to tie back into retained woodland;
- establishment of mixed woodland edge planting to create a transition into more open grass / heathland and to provide lower level visual screening;
- creation of acidic grassland mosaic with pockets of heathland scrub dispersed throughout;
- enhancement of existing / retained hedgerows including gapping up where applicable and
- strengthening woodland belts where retained and exposed.

## 3.2 Pillbox Field Early Planting Proposals

3.2.1 The early planting proposals within Pillbox Field have been designed in accordance with overarching vision and strategy for the EDF Energy Estate and with the following site-specific objectives in mind:

- to support the broader vision for the Sizewell Estate;
- to provide replacement planting for the loss of Coronation Wood;
- to provide a mosaic of different habitats to enhance the character and biodiversity of the AONB landscape;
- to preserve the setting of the pillbox (a locally important heritage asset);
- to preserve in-ground archaeology with no alteration to existing ground levels;
- to ensure any planting within the flood zone is tolerant of periodic wet conditions and will not have an adverse impact on the ability of the land to control and convey floodwater; and
- to ensure the ongoing use of the existing bridleway is not compromised.

3.2.2 The early planting proposals comprise the following features:

- A belt of new woodland and woodland edge planting (approx. 0.4 ha) located immediately north of the existing pillbox structure and crossing Pillbox Field in an east-west direction.
- Smaller pockets of heathland scrub planting (approx. 0.1 ha) either side of the proposed woodland planting.

3.2.3 The remaining land which is not subject to proposed tree and scrub planting comprises existing dry grassland (on slopes and higher ground to the north of the Pillbox Field) and wet grassland and scrub (on lower areas to the south). These areas will be retained as existing and be managed in accordance with EDF Energy Estate Pre-Construction Integrated Land Management Plan. No further management proposals are proposed for the grassland in this document.

## 4. MANAGEMENT PLAN AIMS AND OBJECTIVES

4.1.1 This section details the management aims and objectives for all areas of woodland and scrub planting set out in the proposals.

### 4.2 Aims

4.2.1 The aim of establishing woodland and scrub habitats is to create a low-density and well-structured native woodland which can be maintained through low intensity and sustainable management practices to secure longevity. Species have therefore been selected on the basis of their suitability to prevailing soil and climatic conditions demonstrated by their enduring presence in other parts of the EDF Energy Estate where conditions are comparable.

### 4.3 Objectives

4.3.1 The management objectives associated with this woodland shall be to:

- successful establishment of new planting, targeting 90-95% uptake;
- create an area of trees with complete canopy cover;
- ensure native species are dominant and non-native species account for less than 10% of the vegetation cover;
- develop structural diversity with a good age structure of trees and understory layers along with a range of vegetation types (where planting blocks are large enough to achieve this);
- maintain appropriate edge habitats and preserve any transitions with other surrounding semi-natural habitats;
- ensure that the area is protected from damage by agricultural and other adjacent industrial operations;
- maintain the woodland free from damage from stock or wild mammals during the initial aftercare period up to 5 years and during the maturation period of up to 10 years (subject to review); and
- promote a mosaic of botanical and structural diversity suitable to support reptiles and invertebrates species.

## 5. MANAGEMENT PRESCRIPTIONS AND WORK SCHEDULES

- 5.1.1 This section details the required works to ensure that the objectives set out in Section 4 are achieved.

### 5.2 General Management Requirements

#### **Watering**

- 5.2.1 Generally, not required. New planting shall be regularly monitored for signs of drought. If there is a particularly long dry spell, saturate the ground to ensure water soaks deep into the soil.

#### **Weed Control**

- 5.2.2 In the interests of wildlife, hand weeding (including mechanical methods) should take precedence and herbicides should only be used if required for the removal of noxious weeds or if significant weed growth that is not being suppressed by mechanical means. If essential, herbicide application is to only be carried out by a suitably trained person, in periods of low winds, and with careful directional application to ensure no spray/drift onto tree/shrub species. Only suitable herbicide products under current regulations will be used. Where work is near water/swales it must comply with the DEFRA 1995 'Guidelines for the use of herbicides on weeds in or near water courses and lakes'. All precautions recommended by the manufacturer must be observed and containers removed from site immediately after they have been emptied or are no longer required.

#### **Pest and Disease Control**

- 5.2.3 All plant material shall be inspected for the presence of any pests or disease occurring on the Site and appropriate action shall be taken to remedy the disease and eradicate pests. All materials used in connection with these works shall be of an approved type and be applied and used in accordance with the conditions for the use of herbicides.

#### **Tree and Shrub Shelters**

- 5.2.4 Tree stakes and shelters shall be regularly monitored and maintained as required throughout the establishment period and particularly after storm events to ensure continued support and protection of woodland tree planting. New planting will be regularly monitored for evidence of deer damage and if necessary additional controls put in place.

#### **Replacements**

- 5.2.5 Plant replacement inspections shall be made on an annual basis in August/September for the first 5 years after planting to identify dead, diseased, dying tree stock. Plant replacements shall be carried out annually between the start of November and end of March. Through monitoring the establishment of tree species it may be necessary to consider tailoring replacements in response to success/failure of individual species.

## 5.3 Works Schedule

5.3.1 The following management works will be undertaken in relation to proposed woodland, woodland edge and scrub habitats.

Table 5-1: Woodland and scrub works schedule

Item of work	Year 1	Year 2	Year 3	Year 4	Year 5*
Monitor and adjust/maintain tree stakes and shelters as required.	✓	✓	✓	✓	✓
Maintain planting stations in a weed free condition.	✓	✓	✓	✓	✓
Water plants if conditions necessitate (i.e. during particularly long dry spells).	✓	✓			
Inspect annually when trees are in full leaf and after storms to monitor health of trees	✓	✓	✓	✓	✓
Carry out any works as required for health and safety immediately	✓	✓	✓	✓	✓
Replace any trees which have been removed, uprooted, destroyed or dies within 5 years after planting.	✓	✓	✓	✓	✓
Once established, prune as required outside of the bird nesting season (March to August inc.) unless supervised by a suitably qualified ecologist to ensure appropriate habit/form.					✓
Remove tree stakes and guards in Year 5, or when no longer required or are inhibiting plant growth.					✓
Longer term, log piles comprising timber in excess of 150mm diameter to be created within the woodland following any felling/corrective surgery.					✓
Review woodland management regime every 5 years to ensure it is delivering the desired outcome. Periodic thinning/replacement of trees may be required.					✓

\* management operations to be reviewed during Year 5 to determine ongoing requirements for care (works will come under the ILMP at this stage). Longer term

management operations which will be undertaken under the framework of the ILMP (or equivalent) will include the following operations:

- Thinning and felling of selected woodland trees shall remove the less healthy or less desirable trees and give the remaining trees more space to develop. Prolific colonisers shall be removed to favour desired species to establish or to maintain designated open areas. A mixed age class across the species with reduced canopy cover will create light for the field layer to develop.
- Management of the shrub edge species, including coppicing of suitable species as appropriate, shall be implemented on a rotational cycle after the 5 year establishment period.

Woodland Mix - Total Area 3,395m <sup>2</sup>						
Quantity	Mix (%)	Species	Common Name	Height	Density (m)	Specification
152 No.	10	Acer campestre	Field Maple	80-100cm	1.5Ctr	Transplant :1+1 :BR
453 No.	30	Betula pendula	Silver Birch	80-100cm	1.5Ctr	Transplant :1+1 :BR
30 No.	2	Castanea sativa	Sweet Chestnut	80-100cm	1.5Ctr	Transplant :1+1 :BR
152 No.	10	Pinus sylvestris	Scots Pine	60-80cm	1.5Ctr	Transplant :Leader/Laterals :5LC
152 No.	10	Prunus avium	Wild Cherry	60-80cm	1.5Ctr	Transplant :1+1 :BR
60 No.	4	Quercus ilex	Holm Oak	60-80cm	1.5Ctr	Feathered :2x :3L C: min. 3bks
60 No.	4	Quercus petraea	Sessile Oak	60-80cm	1.5Ctr	Transplant :1+1 :BR
453 No.	30	Quercus robur	Common Oak	80-100cm	1.5Ctr	Transplant :1+2 :BR
Total :1512 No.						

Woodland Edge Mix - Total Area 898m <sup>2</sup>					
Quantity	Species	Common Name	Height	Density (m)	Specification
178 No.	Corylus avellana	Common Hazel	60-80cm	1.0Ctr	Transplant :1+2: 3brks :BR
178 No.	Crataegus monogyna	Common Hawthorn	60-80cm	1.0Ctr	Transplant - seed raised :1+1 :BR
178 No.	Ilex aquifolium	Common Holly	60-80cm	1.0Ctr	Transplant :Leader/Laterals :3LC
178 No.	Prunus spinosa	Blackthorn	60-80cm	1.0Ctr	Transplant :1+1: 3brks :BR
178 No.	Sambucus nigra	Elder	40-60cm	1.0Ctr	Transplant :1+1: 3brks :BR
Total :890 No.					

Heathland Scrub Planting Mix - Total Area 1,007m <sup>2</sup>					
Quantity	Species	Common Name	Height	Density (m)	Specification
505 No.	Cytisus scoparius	Common Broom	40-60cm	1.0Ctr	Transplant :Bushy :7brks :3LC
505 No.	Ulex europaeus	Gorse	30-40cm	1.0Ctr	Transplant :Bushy: 5brks :3LC
Total :1010 No.					

**NOTES:**  
 BR: Bare root, C: Container, 3brks: Minimum number of breaks / branches, 2x: Number of times transplanted, 1+1 or 1/1: 2 year old seedling transplant, one year in seedbed, transplanted and grown on for one year.

**Woodland Mix**  
 All plants to be planted at 1.5 m centres in groups of 3 -12 of the same species.

**Woodland Edge Mix and Heathland Scrub Planting Mix**  
 All plants to be planted at 1 m centres in groups of 3 -12 of the same species.

## PLANTING SPECIFICATION

### Soil Amelioration

Soil sampling will be undertaken prior to planting to inform the soil amelioration methodology.

For soil compaction, existing vegetation will be cut down to ground level followed by shallow cultivation to decompact the soil. Deep subsoil cultivation is not required unless indicated by the soil sampling. For nutrient status / soil improvement, the most appropriate method of soil improvement will be guided by the soil sampling results.

### Planting stock:

All planting to conform to the National Plant Specification and shall be supplied in accordance with relevant British Standards including:

- BS 3936 Nursery Stock - Specification for trees and shrubs and ground cover plants
- BS 4043 Recommendations for transplanting root balled trees
- BS 4428 General Landscaping operations
- BS 5236 Cultivation and planting of trees in the advanced nursery stock category

### Trees:

No trees are to be planted within easement for future proofing and to avoid the need for use of root barriers. Contractor to ascertain the location of all sewers and services prior to tree planting.

### Shrubs:

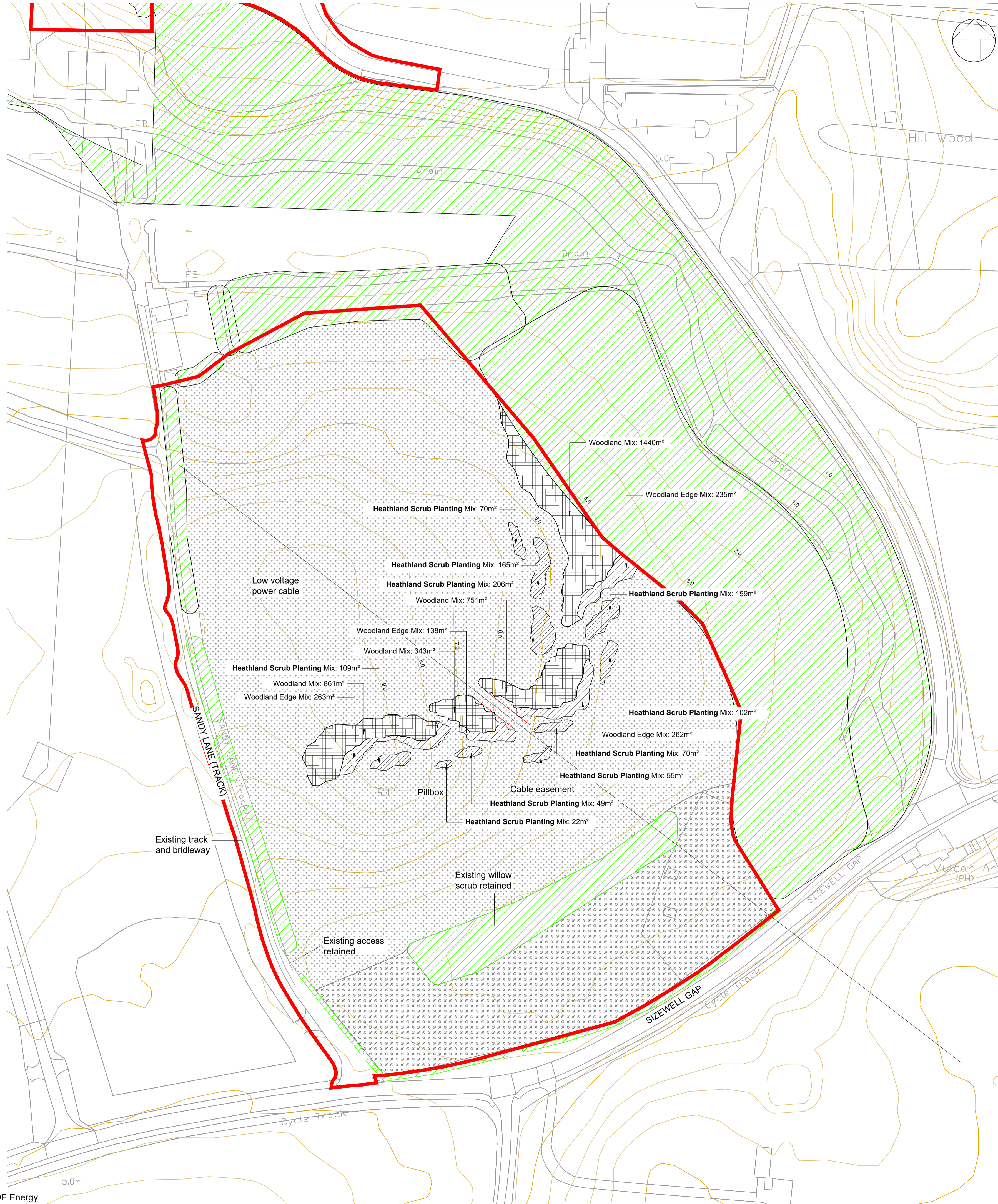
All shrubs shall be supplied as scheduled and comply with quality standards as set out in BS 3936: Part 1. All container grown stock to comply with current edition of British Container Growers Standards to the grade specified.

### Times of year for planting:

- Deciduous trees and shrubs: November to March.
- Conifers and evergreens: November to March.  
 (Both deciduous and coniferous trees to be planted in the dormant period, once they have been lifted by nurseries.)
- Container grown trees/plants: At any time if ground and weather conditions are favourable.
- Watering and weed control: Provide as necessary.

### Tree and Shrub Guards:

All plants except the following species require tree/ shrub guards: Biodegradable tube, 600mm high, 100-160mm diameter with single timber stake support.  
 Species excluded: gorse, broom, holly and pine species.



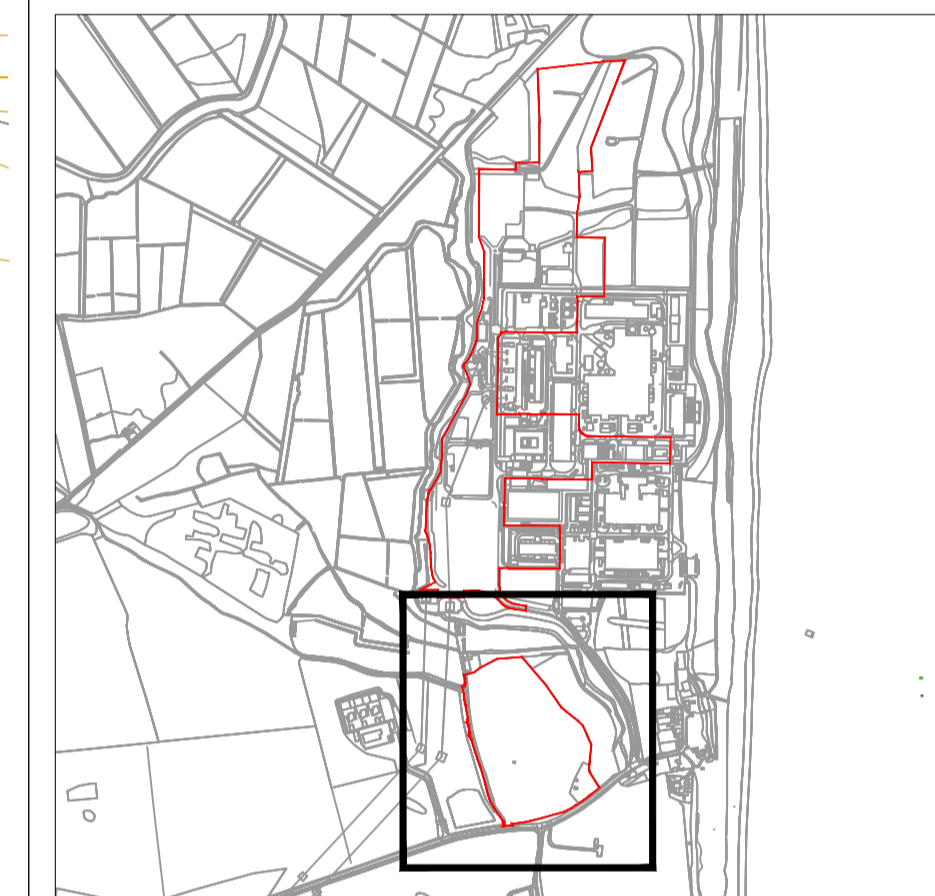
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### NOTES:

### KEY

- Sizewell B relocated facilities site boundary
- Existing features**
  - Existing vegetation retained (woodland and hedgerows)
  - Existing wet grassland/scrub retained and managed
  - Existing Sandlings grassland retained and managed
  - 1m Contours (m, AOD)
- Proposed features**
  - Woodland planting
  - Woodland edge planting
  - Heathland scrub planting

### KEY PLAN



REVISION	DATE	DRAWN	CHECKED	APPROVED	REASONS FOR REVISION/ COMMENTS	
02	Nov 2020	KM		AvdN	AvdN	CONDITION DISCHARGE SUBMISSION
01	Nov 2020	KM		AvdN	AvdN	CONDITION DISCHARGE SUBMISSION

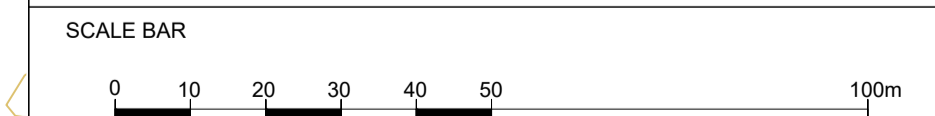


NUCLEAR GENERATION LIMITED

DOCUMENT:  
**SIZEWELL B RELOCATED FACILITIES  
 CONDITION DISCHARGE**

DRAWING TITLE:  
**PILLBOX FIELD  
 PROPOSED LANDSCAPE PLAN**

DRAWING NO: SZC-RF0000-XX-000-DRW-100089	REVISION: 02
DATE: NOV 2020	DRAWN: KM
SCALE: 1:1000 @ A1	



### DRAWING SECURITY CLASSIFICATION

- PROTECTIVE MARKING REQUIRED
- NOT PROTECTIVELY MARKED



SIZEWELL C PROJECT -  
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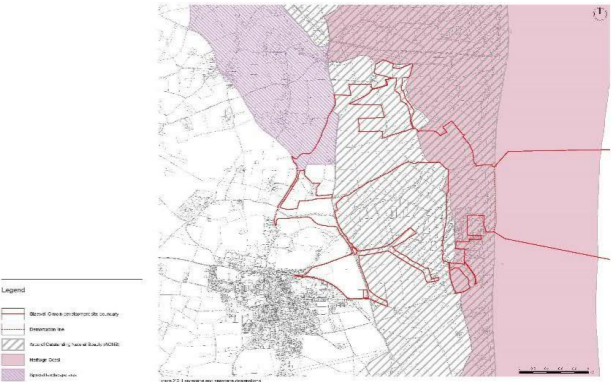



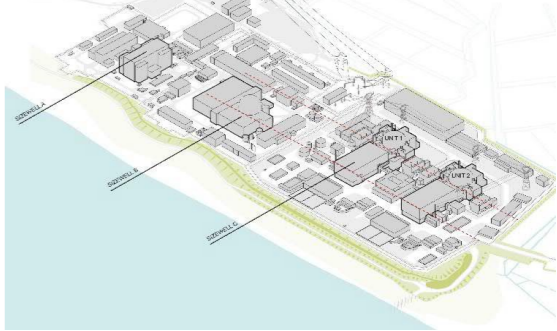
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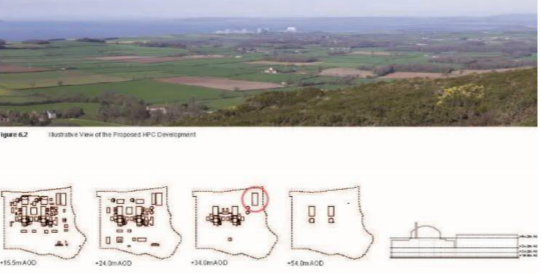







## APPENDIX 18D SIZEWELL C AND HINKLEY POINT C COMPARISON TABLE













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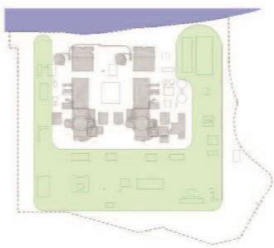



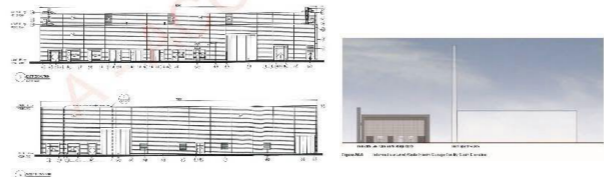

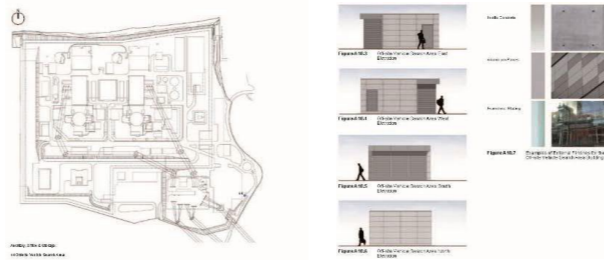








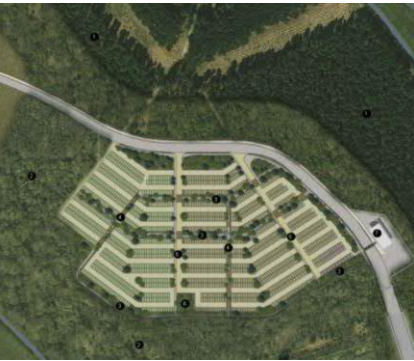
**Sizewell C and Hinkley Point C Comparison Table**

	Hinkley Point C	Sizewell C		
<p>Landscape designations</p>	<p>Permanent development site <b>not</b> located within a nationally designated conservation area. Adjacent Bridgewater Bay Site of Specific Scientific Interest, Severn Estuary Ramsar Site 67, Special Protection Area for wild birds.</p>	 <p>Figure 2.1 HPC Site Context Map (page 184 in Appendix D)</p>	<p>Permanent development site <b>is</b> located within Suffolk Coast &amp; Heaths AONB, Sizewell Marshes SSSI, Dark Skies area</p>	
<p>Compact footprint</p>	<p>The site area of Hinkley Point C is 46ha.</p>		<p>The site area of Sizewell C is 33ha.</p>	
<p>Orientation of operational platform</p>	<p>Orientation of reactor domes and turbine halls are parallel to the coast.</p>		<p>Orientation of reactor domes and turbine halls are parallel to the coast.</p>	

	Hinkley Point C	Sizewell C		
Distant views toward site	Views largely screened from surrounding viewpoints, elevated from Hinkley bowl.		Distant views toward exposed Sizewell site across open land.	
Siting of prominent buildings	Location of largest ancillary building is for the Interim Spent Fuel Store which will also be one of the last to remain on site, and is close to the coast, parallel to turbine halls and reactor domes.		Interim Spent Fuel Store located inland perpendicular to turbine halls and reactor domes.	
Sea defences	Sea defences comprise sea wall and rock armour protection.		Sea defences are an engineered coastal mound with a rock core and light planting.	
Beach access	Jetty provided for temporary access as required.		Beach landing facility provided for access as required during operational phase, together with a temporary beach landing facilities during the construction phase.	
Access road	Hinkley Point C makes use of an existing access route to Hinkley A and B.		Access route off the B1122 which includes a bridge crossing of the SSSI.	

	Hinkley Point C	Sizewell C		
Nuclear island	Nuclear Island GDA approved nuclear safety buildings surround the domed reactor building.		Identical GDA approved Nuclear Island is to be utilised at Sizewell.	
Conventional island	Equipment, site layout and arrangement of the Turbine Halls is set by the GDA approved nuclear island for nuclear safety.		The arrangement of the Turbine Halls is identical for Sizewell.	
Turbine Halls	Turbine Hall elevations are articulated with framed aluminum facades, using various panel types, glazing, mesh and framing.		Turbine Hall facades respond to the Sizewell context, reducing lightspill, providing a simple form building and articulation of a solid façade.	
Operations - secure access	Operational Service Centre located centrally between Turbine Halls, providing access to both Conventional and Nuclear Islands.		Identical location, arrangement and access provided to GDA approved buildings within the permanent development site.	
Operations - consolidation	Main operational building is the OSC with supporting site offices, medical centre and training facilities housed elsewhere throughout the site.		Consolidation of operations facilities within the Operational Service Centre to reduce building volume and footprint on site. This building now incorporates medical centre, training facilities, site offices and welfare.	
Operational Service Centre	Building form of the OSC has two wings perpendicular to the coast which are glazed to north elevation.		The OSC north façade is infilled to have a simpler form with a solid façade to reduce lightspill and human scale elements.	

	Hinkley Point C	Sizewell C		
Cooling water facilities	Cooling water facilities GDA approved as exposed concrete structures. Design development incorporated to HPC designs for outfall and discharge ponds.		Alteration to shape and form of outfall and discharge ponds in design development from Hinkley Point C.	
Ancillary buildings	Ancillary buildings and plant located in a U-shape surrounding the central nuclear structures of unit 1 and unit 2.		Ancillary buildings and plant consolidated where possible and located close to central nuclear structures at minimum required clearances.	
Ancillary buildings - appearance	Ancillary buildings have varying façade details, building form, features and interfaces as a collection of many distinct buildings across the site.		A more uniform approach to be taken to cladding support buildings across the Sizewell site to result in recessive background buildings in views from beyond platform.	
Interim Spent Fuel Store	The Interim Spent Fuel Store		The ISFS to be designed to complement existing Sizewell forms and visually form a recessive backdrop to primary structures in line with Design Principles.	
Peripheral buildings	Peripheral buildings and power export facilities located close to the platform, inland with a reasonably large yet orthogonal footprint.		Peripheral buildings minimised and removed as far as possible, functions located within the platform where possible and remaining structures to be designed to respond to local context in line with Design Principles.	
Power export connection	Power export connection is located inland and comprises above ground gantries and pylon structures.		Power export connection is located on Sizewell B land released from relocating facilities throughout the existing site. Facilities include above ground gantries and pylons. Grid compound will be different	

	Hinkley Point C	Sizewell C		
Landscape approach	<p>Strip platforms of landscaping to relate to the Hinkley context, limited vegetation screening to surround platform.</p>		<p>Compact hard landscaped platform with vegetation screening and landform coastal defences to mask low level structures.</p>	
Car parking	<p>Car parking provided within spread of Hinkley Point C platform.</p>		<p>Goose Hill site for operational and outage car parking, permeable surface treatment and screened by tree planting to reduce impact. Electrical Vehicle Points - transformer off site (upper abbey farm)</p>	



SIZEWELL C PROJECT -  
RESPONSES TO EXAMINING AUTHORITY'S  
WRITTEN QUESTIONS ISSUED ON 21<sup>ST</sup> APRIL 2021

**NOT PROTECTIVELY MARKED**

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## APPENDIX 18E HINKLEY POINT C CONSTRUCTION PHASE VISUAL ANALYSIS

**NOT PROTECTIVELY MARKED**

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## APPENDICES

Appendix A: SZC Representative Viewpoints

Appendix B: Figures

# 1 HINKLEY POINT C CONSTRUCTION PHASE VISUAL ANALYSIS

## 1. Introduction

1.1.1 Local stakeholders, notably the National Trust<sup>1</sup> and Suffolk Coast and Heaths AONB<sup>2</sup>, have argued in their respective Relevant Representation submissions that the Sizewell C (SZC) Development Consent Order (DCO) lacks sufficient information to demonstrate the visual impact of the development during the construction phase during the day and at night.

1.1.2 This Response Paper has been produced to:

- provide details of the visual material presented in the SZC DCO application and submitted in response to Procedural Decision Note 4;
- provide a summary of the material presented to illustrate the construction phase of the Wylfa Newydd Project, referenced by the Suffolk Coast and Heaths AONB in its Relevant Representations, and highlighting its acknowledged limitations;
- present details of the approach taken to illustrate the visual effects of SZC during construction (during the day and at night) by using Hinkley Point C (HPC) as a proxy;

---

1

National Trust Relevant Representation Submission, September 28 2020 records *“The LVIA submitted with the application acknowledges that there will be significant and adverse impact on views from our site at Dunwich Heath. However, it lacks sufficient information to demonstrate the true visual impact of the development during construction and operation. This includes the absence of Computer-Generated Images (CGI’s) through the construction phases both during daytime and night-time and an assessment of external lighting across the whole site when taken in combination with Sizewell A and B.”*

2

Suffolk Coast and Heaths AONB Relevant Representation Submission, September 2020 records *“The AONB Partnership further consider that the EDF Computer Generated Imagery are not fit for purpose to give a visual representation of the impacts of construction and that work similar to that provided for Wylfa should be undertaken”.*



- describe the approach to selecting viewpoints to undertake photography of the HPC construction phase; and
- describe the characteristics of those views and identify the approximate equivalent viewing distances/locations at SZC.

1.1.3 The response paper supports the approach of SZC Co. not to produce photomontage visualisations that illustrate construction phase activity at SZC, and demonstrates that photography of HPC at or near peak construction activity can act as a suitable proxy to illustrate the visual characteristics of activity and plant that can reasonably be expected to be seen at SZC during the day and in night time conditions at a similar point in the construction phasing from locations at various distances from the construction site.

## 1.2 Visual Material presented in the SZC DCO

1.2.1 In addition to a suite of operational phase daytime photowire and photomontage visualisations and night-time photomontages, daytime parameters based photowire visualisations from six representative viewpoint locations were submitted as figures appended to the main development site Landscape and Visual Impact Assessment (LVIA) (**Doc. Ref 6.3**). The parameters based photowire visualisations illustrate the ‘normal’ and ‘exceptional’ height parameters to the heights specified in the Description of Construction (**Doc. Ref. 6.3**). Details of SZC representative viewpoints and construction phase visualisations are provided in **Appendix A**.

1.2.2 The visualisations were prepared and presented in accordance with Landscape Institute Technical Guidance Note 06/19, which was published in September 2019 prior to the DCO submission, and following the methodology set out in Annex 6I.2 of the Environmental Statement (**Doc. Ref 6.1**).

1.2.3 Technical Guidance Note 06/19 “...follows and amplifies the broad principles set out in *The Guidelines for Landscape and Visual Impact Assessment 3rd edition (GLVIA3)*. Consistent with the *Environmental Impact Assessment Regulations (EIA Regs)*, *GLVIA3* advocates proportionate and reasonable approaches to the scope of assessments”.

1.2.4 Neither Technical Guidance Note 06/19 or GLVIA3 is prescriptive about the approach to producing visualisations for the construction stage of a

development, with paragraph 1.2.8 of Technical Guidance Note 06/19 stating:

*“Depending upon the nature / type of the development or change, visualisations may need to show the development: during construction (if the construction period is of long duration and a notable element of the proposal's visual impact); at specific points in time during operation to illustrate the effectiveness of landscape mitigation; or possibly at decommissioning and restoration (e.g. as with a quarry or landfill site)”.*

1.2.5 The approach to the production of visualisations, and selection of representative viewpoint locations to be used, was agreed with LVIA consultees (Natural England, Suffolk Coast and Heaths AONB, Suffolk County Council and East Suffolk Council).

### 1.3 Visual Material Submitted in the Response to Procedural Decision Notice 4

1.3.1 Planning Inspectorate - Procedural Decision Notice 4 specifically requested additional visualisations to illustrate the accommodation campus and land east of Eastlands Industrial Estate during the construction phase.

1.3.2 In response SZC Co. prepared and submitted seven additional day time construction phase visualisations.

1.3.3 The material submitted comprised one photomontage and two photowires of the accommodation campus and four parameters based photowires of the land east of Eastlands Industrial Estate. Details are provided in **Appendix A** for completeness.

1.3.4 The approach to the production of these visualisations was agreed with East Suffolk Council and Natural England.

### 1.4 Wylfa Newydd Project Illustrative Construction Visualisations

1.4.1 The Suffolk Coast and Heaths AONB Relevant Representation refers to the visual material provided for the Wylfa Newydd Project DCO.

1.4.2 Appendix D10-8 of the Wylfa Newydd Project DCO Environmental Statement presents 26 no. photomontage views of the power station during operation. The viewpoint locations for the production of the operational phase

visualisations were selected from the 39 no. representative viewpoint locations and 24 no. illustrative viewpoints referenced in the Wylfa Newydd Project LVIA. However, no construction phase visualisations were included with in the Wylfa Newydd Project DCO submission.

1.4.3 Illustrative construction phase visualisations of the Wylfa Newydd power station were prepared and submitted for Examination Deadline 6, to address comments received from the Isle of Anglesey County Council (IACC) through the statement of common ground process as well as in IACC's Local Impact Report and responses to the Examining Authority's First Round of Written Questions.

1.4.4 As recorded in the Wylfa Newydd Project, Illustrative Construction Visualisations document (19 February 2019, PINS Reference Number EN010007):

*"Illustrative construction visualisations have been prepared with reference to the guidelines set out in Photography and photomontage in landscape and visual impact assessment..."* (Landscape Institute Advice Note 01/11).

1.4.5 Eight viewpoint locations were selected for the production of the construction phase visualisations. The document records that the *"...viewpoint locations for the illustrative construction visualisations have been selected to illustrate the effect of construction on local, middle-distance and distant views across a broad geographical range within the landscape and visual study area. The selection of viewpoints has considered comments received from the IACC..."*.

1.4.6 It adds that *"Whilst not including every viewpoint requested by the IACC, it is considered that the selection of viewpoints provides a more comprehensive set of construction visualisations than that requested, with a broader range of viewpoints illustrating the effects on a wider range of receptors"*.

1.4.7 With reference to the material presented in the visualisations, the document records that:

*"As the construction landform would progressively change to form the operational mounding, two versions of each photomontage have been produced to illustrate the construction landform as a transparent and a solid layer in order to reflect both visibility prior to its formation, as well as its screening effect once completed."*

1.4.8 And

*“All illustrative construction visualisations show winter views for worst case visibility (as deciduous vegetation is without leaf cover and screening is therefore limited), with a small number of views also illustrated during the summer to give an indication of seasonal variation. The effectiveness of planting mitigation during construction has not been illustrated, in order to indicate the worst case before any early planting has taken place and establishes.”*

1.4.9 It also records that the purpose of the illustrative construction visualisations

*“...is to provide an indication of how the Wylfa Newydd Development Area may appear during Main Construction of the Power Station”.*

1.4.10 Highlighting the limitations of the approach adopted, it adds that:

*“As the positions of plant, cranes, temporary buildings and structures will vary throughout the period, the illustrative visualisations can only be indicative; however, maximum parameter envelopes have been used to indicate worst case envelopes within which key construction activities could be visible, as well as views of tall plant seen above parameter envelopes such as cranes”.*

1.4.11 It also records that:

*“...the illustrations are based upon construction within all parts of the site happening concurrently to illustrate the worst case scenario at the peak of construction activity. However, in reality construction activities would be phased and the actual visual impact at any given time is therefore likely to be less than that illustrated”.*

1.4.12 The indicative nature of the visualisations presented is recorded again at Paragraph 1.5.2 which states:

*“It should also be noted that the illustrative construction visualisations are indicative only and intended to illustrate examples of typical cranes, plant and other main*

*construction features likely to be present during Main Construction. The illustrative construction visualisations are provided for information only.”*

## 1.5 Approach to Illustrating SZC During Construction

- 1.5.1 SZC Co. has reviewed the approach to the production of construction phase visualisations adopted at Wylfa Newydd.
- 1.5.2 In recognition of the acknowledged limitations of the approach to visually presenting construction phase activity noted at Wylfa Newydd, and in the context of the construction phase parameters based photowire visualisations presented in the SZC DCO, and prepared in response to Procedural Decision Notice 4, SZC Co. has commissioned professional photography of the HPC construction site in order to provide a proxy to illustrate the visual characteristics of activity and plant that can reasonably be expected to be seen at SZC during the day and in night-time conditions at a similar point in the construction phasing.
- 1.5.3 Whilst the characteristics of the SZC and Hinkley Point C (HPC) sites and their surrounding landscape context differ, this approach to illustrating construction phase activity at SZC is selected in preference to preparing photomontage illustrations similar to Wylfa Newydd as the construction of SZC would, in broad terms, closely replicate that of HPC, with similarities in the type and phasing of construction activity and the plant and facilities (such as cranes and structures such as the concrete batching plant) that would be visible operating within the construction site.
- 1.5.4 SZC Co. acknowledges that the orientation, size and configuration of the temporary construction area at SZC differs to HPC, and that there is likely to be some variations in the maximum height of some cranes and the types of cranes used when compared to HPC. As such it is not intended that the photographs of HPC are to be regarded as an exact representation of the SZC Co. construction site and it is advised that reference should also be made to the parameters based construction phase photowire visualisations prepared by SZC Co. for details of how the construction site would appear in specific views. Details of SZC representative viewpoints and construction phase visualisations are provided in **Appendix A**.
- 1.5.5 The locations selected for undertaking construction phase photography of HPC replicate and use viewpoint locations from the HPC LVIA. From the list of HPC viewpoints, viewpoint locations were chosen that present views at

different distances and at different orientations to the HPC construction site and from urban, rural, and coastal environments.

1.5.6 The period of time that the photographs were taken coincides with year 4-5 of the construction phase of the HPC project. This approximates to the maximum construction scenario at both HPC and SZC.

1.5.7 Characteristics of the stage of the construction works at HPC illustrated are as follows:

- The internal structures of the Turbine Halls are under construction.
- All earthworks have been completed.
- All construction platforms have been created and are being used.
- All four offices and welfare facilities are completed and operational.
- The main civil works on Unit 1 Nuclear Island are now above ground level (the pumphouse in the heat sink remains below ground level).
- The first tunnel boring machine has completed the Unit 1 intake tunnel.
- On Unit 2, main civils works have commenced and are approximately 12 months behind Unit 1 with the Nuclear Island, Conventional Island and Heat Sink all below ground level.
- 3 Ancillary buildings are under construction (the Framatone Warehouse, the Simulator and Training Building and the National Grid Substation).
- The on-site campus is complete and is fully occupied.
- The Mechanical, Electrical and HVAC - heating, ventilation, and air conditioning (MEH) phase of the project has now begun with the installation of the first walled in equipment.

1.5.8 Cranes are the tallest pieces of plant on the site at this stage of the construction works. Specific plant and construction activity/features visible on the photographs are annotated where appropriate and include:

- One Heavy Lift Crane (Sarens SGC-250 Super Crane), known as 'Big Carl' (which extends to a maximum of 175m AOD on a +14m AOD

platform). Two ‘Bunkers’, where the liner domes/inner containment ring are constructed, are operational. The roof of these structures is removed, and the Heavy Lift Crane then lifts the liner domes etc. onto the Nuclear Island.

- 36 luffing tower cranes, the majority of which are 60-80m tall. Luffing cranes also include the marine crane at 188m tall when extended, and 4 cranes at around 100m tall (depending on platform height);
- 8 fixed boom cranes (between 40-50m tall when extended); and
- 10 temporary crawler cranes between 20-40m tall when extended).

**1.5.9** The photographs of the HPC construction site were taken between 28 January and 5 February 2021. Therefore, winter views are illustrated when deciduous trees and shrubs are without leaf cover and screening is therefore more limited than at other times of the year.

**1.5.10** Weather conditions were relatively consistent over the period the photographs were taken. Conditions were generally overcast with low cloud and occasional light rain, interspersed with clear sky conditions. Generally, conditions were good for photography with relatively clear views available.

**1.5.11** Photographs of the HPC construction site were taken during the day and during night to illustrate the visual character of plant and activity in contrasting lighting conditions.

**1.5.12** It should be noted that at night, several variables influence the degree to which existing artificial light (point source lights, the light reflecting off structures and sky glow) appear in the photographs. In several cases lighting appears brighter on the photographs to that experienced on site due to the long exposure time required to capture night-time photographs. Atmospheric humidity can also influence the way that sky glow appears, with high levels causing a greater degree of light diffusion creating a greater degree of sky glow when compared to low atmospheric humidity conditions.

**1.5.13** The SZC Lighting Management Plan (**Doc Ref. 6.3**) includes details of measures that would be implemented to minimise the visual impact of artificial lighting from construction activity and plant. Measures would include targeting lighting where it is required to ensure safe and secure working environment, monitoring effects, and adjusting task lighting, avoiding unnecessary illumination (such as illumination of construction company logos on cranes), minimising upward lighting and light spill to neighbouring areas

and to protect dark zones and corridors (e.g., along retained hedgerows to protect bat flight corridors). Where possible fixed lighting has also been minimised within areas of the SZC main development site that are adjacent to sensitive visual receptors including Leiston Old Abbey Nursing Home, residential properties along Lover’s Lanes, Sandy Lane, and Abbey Road (B1122) and east of Leiston Abbey. Similarly, fixed lighting has been minimised in the area of the sea defences, northern mound, and beach.

- 1.5.14** As part of actively managing the effects of lighting, measures to minimise light pollution and disruption to local wildlife are being applied at HPC including installing rotary switches to control lighting. The use of passive infrared sensors (PIR's), timers and other sensors, plus a number of other measures are also being investigated, to take the human factor out of turning lights on/off.
- 1.5.15** SZC Co. would review the measures adopted at HPC to control the landscape and visual effects of construction phase activity at night as part of a 'lessons learned' exercise which would, where appropriate, be incorporated in the SZC Lighting Management Plan.

## 1.6 Location and Characteristics of HPC Construction Phase Views

### a) Location of Selected HPC Viewpoints

- 1.6.2** **Table 1** provides details of the HPC photograph locations.
- 1.6.3** The viewpoint details provided in the first column replicate the information in the HPC LVIA.
- 1.6.4** The elevation noted in the table is approximate and was recorded on site at the location the photograph was taken. The distances referred to are approximate and are measured between the viewpoint location and the closest reactor dome, which are fixed elements common to the HPC and SZC proposals.

**Table 1: HPC Photograph Locations**

Viewpoint Details	Elevation (m AOD)	Distance to Nearest Reactor Dome (km)
VP03: West Somerset Coast Path, Lilstock, PRow No. WL 24/10	7.1	3.0



VP04: PRoW No. WL 24/8	25.8	2.5
VP05: Higher Hill, PRoW No. 24/3	106.7	4.1
VP15: PRoW No. WL 23/61	5.5	1.3
VP16: Wick, PRoW No. WL 23/61	12.6	1.6
VP17: Farrington Hill Lane (Farringdon Farm)	60.4	2.5
VP18: Residential area at Stogursey, Burgage Road/Lime Street	34	2.7
VP19: Stolford, West Somerset Coast Path, PRoW no. WL 23/95	8.8	2.6
VP20: Stockland Bristol, PRoW No. BW 32/3	15.3	4.2
VP36: Puriton Hill, PRoW no. BW 28/3	38.3	12.3
VP39: Berrow Beach	7.6	11.7

## b) Characteristics of Views of HPC Construction Phase Activity

**1.6.5** The photographs of HPC are judged to provide a reasonably accurate indication of the nature of construction phase activity that can be expected to be visible at SZC at a similar phase of works (i.e., year 4-5) and at similar distances. It is acknowledged that the area, shape and configuration of the HPC and SZC temporary construction sites are different, and that the elevation of viewing locations in relation to the construction sites, the intervening landform, landscape character and effects of screening also differ significantly between HPC and SZC.

**1.6.6** For each of the selected viewpoints, a short narrative description of what is visible at HPC is presented, along with a note on SZC representative viewpoints at broadly comparable viewing distances (+/- 0.5km), and approximate comparable viewing locations at SZC, noting any major differences in the nature of the viewing place and visual context.

- 1.6.7 Reference should be made to the following when reading the narrative descriptions:
- **Appendix A** which provides details of the SZC representative viewpoint locations and references relevant construction phase visualisations where appropriate.
  - **Figure 1 (Appendix B)** which illustrates the HPC photograph viewpoint locations. 1km, 2.5km, 5km 10km and 15km distance buffers from the HPC reactor domes are also illustrated.
  - **Figure 2 (Appendix B)** which presents annotated photographs of the HPC construction site. The views are orientated towards the core of the HPC construction site unless otherwise indicated.
  - **Figure 3 (Appendix B)** which illustrates the location of SZC representative viewpoints. 1km, 2.5km, 5km 10km and 15km distance buffers from the SZC reactor domes are also illustrated.
- i. [Viewpoint 3: West Somerset Coast Path, Lilstock, PRoW No. WL 24/10](#)
- 1.6.8 This viewpoint is located on the coastline, approximately 3km west of the nearest HPC reactor dome. The HPC construction site is seen at the end of a shallow, curving bay with low cliffs marking the transition between land and sea. The existing HPCA and HPCB structures are visible behind (east of) the main construction site with gently undulating farmland in the foreground.
- 1.6.9 Intervening rising landform and established belts of vegetation immediately west of the construction site provide a degree of screening to low level activity, but views are possible into the site, with several structures, including the concrete batching plant, clearly visible. Cranes form a relatively tight cluster in the core of the construction site, with the most prominent being the Luffing Tower Crane (Marine Crane) and Sarens SGC-250 Super Crane. The jetty is visible extending out to sea. At the time of the visit, there were no vessels at the jetty.
- 1.6.10 At night, reflected light off several structures, including the concrete batching plant and existing HPA and HPB structures is notable. Point source task and other lights are also noted. However, the principal lighting element in the view is the light reflected off cranes. A small number of red aviation lights are visible, but not prominent. Lighting at the jetty extends the area of artificial illumination into the marine environment. The area of sky glow is

largely contained to the area above the site, with little sky glow evident associated with the jetty on the night of the site visit.

**1.6.11** This viewpoint is broadly representative of views approximately 3km from the nearest SZC reactor dome. Representative viewpoints located approximately 3km (+/- 0.5km) from the nearest SZC reactor dome are as follows:

- Representative Viewpoint 5, Footpath south of Leiston Abbey (2.8km to nearest reactor dome).
- Representative Viewpoints 7, Sandlings Walk/Sustrans route south of Eastbridge (2.5km to nearest reactor dome).
- Representative Viewpoint 8, Footpath north of Leiston Abbey (2.7km to nearest reactor dome).
- Representative Viewpoint 15, Beach at Thorpe Ness (3km to nearest reactor dome).
- Representative Viewpoint 16, RSPB Minsmere (Whin Hill) (3.1km to nearest reactor dome)
- Representative Viewpoint 17, National Trust Coastguard Cottages car park (3.5km to nearest reactor dome).
- Representative Viewpoint 24/25, Leiston Abbey (from top of ruins) (2.7km to nearest reactor dome).
- Representative Viewpoint 27, Footpath, Valley Road Allotments, Leiston (2.7km to nearest reactor dome).
- Representative Viewpoint 32, Footway adjacent to Valley Road, north of railway overbridge (2.6km to nearest reactor dome).

**1.6.12** Considering the orientation of this view, this viewing location broadly corresponds to viewpoints along the coastline north of SZC, approximately in the area east of the Minsmere RSPB reserve and south east of the National Trust Dunwich Coastguard Cottages. In the views from the north of SZC, established forestry at Goose Hill would screen a greater degree of the lower lying activity (including traffic, vehicles and working areas) and structures compared to the situation at HPC. However, and subject to viewing location, structures such as the concrete batching plant and cranes would be visible

above the vegetated datum. Cranes would, as at HPC, be the prominent feature visible in the view, appearing in a relatively tightly clustered zone in the core of the construction site and in the foreground of SZA and SZB. From coastal locations north of SZC, activity associated with the construction of the coastal defences would also be clearly visible, which differs from the HPC view, where coastal works are generally screened by the headland immediately west of the site. Artificial illumination at the permanent and temporary beach landing facilities would be visible extending out to sea from coastal locations north of SZC.

ii. VP04: PRoW No. WL 24/8

1.6.13 This viewpoint is located approximately 2.5km inland, south west of the nearest HPC reactor dome. The construction site is seen east of the gently undulating agricultural landscape in the foreground. The existing HPA and HPB structures are visible behind (north east of) the construction site, with lower levels partially screened by intervening landform.

1.6.14 Rising landform immediately south west of the construction site screens views to low level activity, plant, and structures within the construction site, but views are possible to cranes that form a relatively tight cluster in the core of the construction site, with the most prominent being the Luffing Tower Crane (Marine Crane) and Sarens SGC-250 Super Crane. To the right of the area where cranes are operational, the temporary stockpiles are visible. Vehicles and plant are visible operating on the temporary stockpiles.

1.6.15 At night, the principal source of artificial light in the view is the light reflected off cranes. A small number of red aviation lights are visible, but not prominent. Internal lighting at HPB and reflected light off HPA and HPB are also notable. There are some point source lights in the area of the temporary stockpiles, but these areas are generally dark. The area of sky glow is largely contained to the area above the site, with localised sky glow evident associated with the area of the temporary stockpiles.

1.6.16 This viewpoint is broadly representative of views approximately 2.5km from the nearest SZC reactor dome. Representative viewpoints located approximately 2.5km (+/- 0.5km) from the nearest SZC reactor dome are as follows:

- Representative Viewpoint 1 Sandlings Walk north of Upper Abbey Farm (2km to nearest reactor dome).

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- Representative Viewpoint 3, King George's Avenue Leiston (2.3km to nearest reactor dome).
- Representative Viewpoint 5, Footpath south of Leiston Abbey (2.8km to nearest reactor dome).
- Representative Viewpoint 7, Sandlings Walk/Sustrans Route south of Eastbridge (2.5km to nearest reactor dome).
- Representative Viewpoint 8, Footpath north of Leiston Abbey (2.7km to nearest reactor dome).
- Representative Viewpoint 11, Junction of footpaths south west of Halfway Cottages (2.2km to nearest reactor dome).
- Representative Viewpoint 14, Suffolk Coast Path at Minsmere Sluice (2km to nearest reactor dome).
- Representative Viewpoint 15, Beach at Thorpe Ness (3km to nearest reactor dome).
- Representative Viewpoint 24/25, Leiston Abbey (from top of ruins) (2.7km to nearest reactor dome).
- Representative Viewpoint 26, Offshore – 1800m directly east of Sizewell power stations (2.2km to nearest reactor dome).
- Representative Viewpoint 27, Footpath, Valley Road Allotments, Leiston (2.7km to nearest reactor dome).
- Representative Viewpoint 30, Junction of footpaths, The Walks (2km to nearest reactor dome).
- Representative Viewpoint 32, Footway adjacent to Valley Road, north of railway overbridge (2.6km to nearest reactor dome).

1.6.17 Considering the orientation of this view, this viewing location broadly corresponds to viewpoints north west of Sizewell C, approximately in the area south of the Minsmere RSPB Reserve and east of Eastbridge. In the views from this area, the SZC construction site extends closer to the viewing location than the HPC construction site does in relation to the HPC viewpoint. As such, activity associated with the temporary stockpiles would be closer to the viewer at SZC. The borrow pit stockpiles and main stockpile, undulating

landform, along with established vegetation, including Ash Wood and Goose Hill would screen a greater degree of the lower lying activity (including traffic, vehicles and working areas) and structures compared to the situation at HPC. Subject to location and orientation of the view, tall structures including the upper portions of the concrete batching plant may also be visible above the level of intervening vegetation. Cranes would, like at HPC, be the prominent feature visible in the view.

iii. **VP05: Higher Hill, PRoW No. 24/3**

- 1.6.18** This viewpoint is located approximately 4.1km inland, south west of the nearest HPC reactor dome. The viewpoint is elevated, at approximately 107m AOD and provides panoramic views towards the HPC construction site and coastline. The construction site is seen north east of the gently rolling agricultural landscape in the foreground. The existing HPA and HPB structures are visible behind (north east of) the main construction site.
- 1.6.19** Rising landform immediately south west of the construction site screens views to low level activity and structures, but views are possible to several temporary and emerging permanent structures, notably the concrete batching plant and Bunkers. Cranes form a relatively tight cluster in the core of the construction site, with the most prominent being the Luffing Tower Crane (Marine Crane) and Sarens SGC-250 Super Crane. The jetty is also visible. A single isolated (training) crane is seen detached from the main construction site in proximity to the accommodation campus, which is partially visible, with elements screened by intervening landform. To the right of the area where cranes are operational, stockpiles and storage areas are visible. Vehicles and plant are visible operating on the temporary stockpiles.
- 1.6.20** At night, internal lighting is visible at HPB and there is reflected light at HPA. The principal source of artificial light in the view is the light reflected off cranes and structures (including the concrete batching plant) and some point source lights, including task lights, are visible at ground level. Lighting at the jetty also extends the area of artificial illumination into the marine environment. A small number of red aviation lights are visible, but not prominent. There are some point source lights in the area of the temporary stockpiles and accommodation campus, but these areas are generally dark compared to the core area of construction. The area of sky glow is largely contained to the area above the site, with little sky glow evident associated with the temporary stockpiles, accommodation campus or jetty. The stockpiles are generally dark, albeit discernible against the darker foreground.

1.6.21 This viewpoint is broadly representative of views approximately 4km from the nearest SZC reactor dome. Representative viewpoints located approximately 4km (+/- 0.5km) from the nearest SZC reactor dome are as follows:

- Representative Viewpoint 13, Abbey Lane east of Cakes and Ale Caravan Park (3.7km to nearest reactor dome).
- Representative Viewpoint 17, National Trust Coastguard Cottages car park (3.5km to nearest reactor dome).
- Representative Viewpoint 28, Footpath south of Theberton (3.7km to nearest reactor dome).

1.6.22 Considering the orientation of this view, this viewing location broadly corresponds to viewpoints north west of SZC, approximately in the area north east of Theberton. The elevated viewing location also illustrates the character of views from higher ground north of SZC, for example at National Trust Coastguard Cottages and the RSPB Minsmere reserve at Whin Hill. In the views from this area, the SZC construction site extends closer to the viewing location than the HPC construction site does in relation the viewer, and possible viewing locations are at a lower elevation. The borrow pit stockpiles and main stockpile, undulating landform, along with established vegetation, including Ash Wood and Goose Hill would be visible and screen a greater degree of the lower lying activity (including traffic, vehicles and working areas) and structures in the core of the construction site compared to the situation at HPC. Subject to location and orientation of the view tall structures including the upper portions of the concrete batching plant may also be visible above the level of intervening vegetation. However, cranes would, like at HPC, be the prominent feature visible in the view, appearing in a relatively tightly clustered zone in the core of the construction site and extending inland (west). Activity and lighting associated with works in the north of the construction area, including borrow pits and stockpiles at SZC would be closer to the viewer than is the case at HPC.

iv. [VP15: PRoW No. WL 23/61](#)

1.6.23 This viewpoint is located a short distance inland from the coastline, approximately 1.3km east of the nearest HPC reactor dome. The most prominent feature in the view is the existing HPB, which is visible through and above intervening belts of vegetation. The construction site is located behind (west) of the existing power station. However, activity and plant

(including cranes) in the core of the construction site are largely screened by intervening vegetation. The view south west where there is no intervening vegetation immediately adjacent to the viewing location, includes views to southern portion of the construction site which is seen behind (west of) existing pylon towers. Notable features that are visible include the accommodation campus and parked and moving vehicles. A single (training) crane is also visible.

**1.6.24** At night, the core area of the construction site is visible as sky glow above the existing HPB. A single illuminated crane is also visible, along with some point source lights of indeterminate origin. To the south west there are clear views into the southern portion of the construction site, with several point source lights visible, including task lighting, lighting columns adjacent to roadways and security lights. A single illuminated (training) crane is also visible.

**1.6.25** This viewpoint is broadly representative of views approximately 1.5km from the nearest SZC reactor dome. Representative viewpoints located approximately 1.5km (+/- 0.5km) from the nearest SZC reactor dome are as follows:

- Representative Viewpoint 1 Sandlings Walk north of Upper Abbey Farm (2km to nearest reactor dome).
- Representative Viewpoint 4, Lover's Lane south of Fiscal Policy (1.9km to nearest reactor dome).
- Representative Viewpoint 9, Sizewell Gap south of Greater Gabbard Sub-Station (1.5km to nearest reactor dome).
- Representative Viewpoint 10, Suffolk Coast Path and Sandlings Walk east of Hill Wood (1km to nearest reactor dome).
- Representative Viewpoint 12, Bridleway south east of Reckham Lodge (1.3km to nearest reactor dome).
- Representative Viewpoint 14, Suffolk Coast Path at Minsmere Sluice (2km to nearest reactor dome).
- Representative Viewpoint 29, Sandlings Walk at Home Farm (1.6km to nearest reactor dome).



- Representative Viewpoint 30, Junction of Footpaths, The Walks (2km to nearest reactor dome).

1.6.26 Considering the orientation of this view, the viewing location broadly corresponds to viewpoints a short distance inland of the coast to the south of SZA, approximately in the area of the Sizewell Gap. From some locations, views to construction plant and activity at SZC would not be possible, and replicate the view illustrated. However, from other locations, for example on Sizewell Gap south of Pillbox Field views would be possible to cranes above the level of intervening vegetation and structures at SZA and SZB. However, unlike the HPC view, the accommodation campus is unlikely to be visible from this location due to the screening afforded by intervening vegetation, including at Kenton Hills.

v. VP16: Wick, PRow No. WL 23/61

1.6.27 This viewpoint is located inland of the coastline, approximately 1.6km south east of the nearest HPC reactor dome. The existing HPA structures are prominent in the view and the construction site is seen behind (west) of the relatively flat agricultural fields in the foreground and above the intervening boundary hedgerow and belts of trees.

1.6.28 Intervening vegetation provides a degree of screening to low level activity, but views are possible into the construction site. Cranes form a relatively tight cluster in the core of the construction site, with the most prominent being the Luffing Tower Crane (Marine Crane) and Sarens SGC-250 Super Crane. A single outlying (training) crane is also visible left (south) of the core of the construction site close to the accommodation campus, which is largely screened from view. Temporary stockpiles are visible and provide screening to activity to the north of these features.

1.6.29 At night, the construction site is visible as a number of point source lights, visible through the intervening vegetation. The principal artificial lighting element in the view is the light reflected off cranes. A small number of red aviation lights are visible, but not prominent. The area of sky glow is largely contained to the area above the site, with little sky glow evident associated with the area of the campus in the left of the view). It is noted that the Grouting Mock-up is not illuminated and is in a recessive dark colour and as such is less visible than in the daytime view.

1.6.30 This viewpoint is broadly representative of views approximately 1.5km from the nearest SZC reactor dome. Representative viewpoints located

approximately 1.5km (+/- 0.5km) from the nearest SZC reactor dome are as follows:

- Representative Viewpoint 1 Sandlings Walk north of Upper Abbey Farm (2km to nearest reactor dome).
- Representative Viewpoint 4, Lover's Lane south of Fiscal Policy (1.9km to nearest reactor dome).
- Representative Viewpoint 9, Sizewell Gap south of Greater Gabbard Sub-Station (1.5km to nearest reactor dome).
- Representative Viewpoint 10, Suffolk Coast Path and Sandlings Walk east of Hill Wood (1km to nearest reactor dome).
- Representative Viewpoint 12, Bridleway south east of Reckham Lodge (1.3km to nearest reactor dome).
- Representative Viewpoint 14, Suffolk Coast Path at Minsmere Sluice (2km to nearest reactor dome).
- Representative Viewpoint 29, Sandlings Walk at Home Farm (1.6km to nearest reactor dome).
- Representative Viewpoint 30, Junction of Footpaths, The Walks (2km to nearest reactor dome).

**1.6.31** Considering the orientation of this view, the viewing location broadly corresponds to viewpoints south west of the Sizewell C construction site, approximately in the area between Sizewell Gap and Leiston Common. In the views from the south west of SZC, intervening established vegetation including forestry at Kenton Hills would screen a greater degree of the lower lying activity (including traffic, vehicles and working areas) and structures compared to the situation at HPC. However, cranes would be visible above the vegetated datum, extending over a wider extent of the view than at HPC. Cranes would, like HPC, be the prominent feature visible in the view, appearing in a relatively tightly clustered zone in the core of the construction site. Unlike the situation at HPC, views from this broad location would also include views to construction activity at LEEIE (in views to the south west – away from the core of the SZC construction site).

vi. **VP17: Farrington Hill Lane (Farrington Farm)**

- 1.6.32 This viewpoint is located approximately 2.5km south east of the nearest HPC reactor dome.
- 1.6.33 The existing HPC Unit 1 and HPC Unit 2 structures are visible east of the main construction site. The elevation of the viewing location and general absence of intervening vegetation results in relatively clear and open views to the construction site. Several emerging and temporary structures, including office buildings are visible, along with low-level activity, such as vehicle movements and equipment storage areas. Cranes form a relatively tight cluster in the core of the construction site, with the most prominent being the Luffing Tower Crane (Marine Crane) and Sarens SGC-250 Super Crane. The temporary Bunkers are also visible adjacent to the National Grid sub-station. West of the core construction area, activity and plant associated with the stockpiles.
- 1.6.34 At night, the construction site is illuminated and seen to the left (west) of the artificial illumination at HPA an HPB (which appears more orange in colour due to the specification of lighting used). In the core of the HPC construction site reflected light off several structures is notable along with numerous point source lighting and lighting from within buildings. The substation is a notable exception which appears in silhouette, with no visible apertures. The light reflected off cranes is also noted, but less prominent than the illumination from ground level point source lights. A small number of red aviation lights are visible, but not prominent in the view. To the left (west) of the core construction area, a small number of point source lights are visible at the storage area and construction compounds/temporary offices to the south of the site.
- 1.6.35 This viewpoint is broadly representative of views approximately 2.5km from the nearest SZC reactor dome. Representative viewpoints located approximately 2.5km (+/- 0.5km) from the nearest SZC reactor dome are as follows:
- Representative Viewpoint 1 Sandlings Walk north of Upper Abbey Farm (2km to nearest reactor dome).
  - Representative Viewpoint 3, King George's Avenue Leiston (2.3km to nearest reactor dome).

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- Representative Viewpoint 5, Footpath south of Leiston Abbey (2.8km to nearest reactor dome).
- Representative Viewpoint 7, Sandlings Walk/Sustrans Route south of Eastbridge (2.5km to nearest reactor dome).
- Representative Viewpoint 8, Footpath north of Leiston Abbey (2.7km to nearest reactor dome).
- Representative Viewpoint 11, Junction of footpaths south west of Halfway Cottages (2.2km to nearest reactor dome).
- Representative Viewpoint 14, Suffolk Coast Path at Minsmere Sluice (2km to nearest reactor dome).
- Representative Viewpoint 15, Beach at Thorpe Ness (3km to nearest reactor dome).
- Representative Viewpoint 24/25, Leiston Abbey (from top of ruins) (2.7km to nearest reactor dome).
- Representative Viewpoint 26, Offshore – 1800m directly east of Sizewell power stations (2.2km to nearest reactor dome).
- Representative Viewpoint 27, Footpath, Valley Road Allotments, Leiston (2.7km to nearest reactor dome).
- Representative Viewpoint 30, Junction of footpaths, The Walks (2km to nearest reactor dome).
- Representative Viewpoint 32, Footway adjacent to Valley Road, north of railway overbridge (2.6km to nearest reactor dome).

**1.6.36** Considering the orientation of this view, the viewing location broadly corresponds to viewpoints south west of the Sizewell C construction site, at the northern fringes of Leiston. In the views from the south west of Sizewell, the relative elevation is lower than the viewing location illustrated at HPC and intervening established vegetation including forestry at Kenton Hills would screen a greater degree of the lower lying activity (including traffic, vehicles and working areas) and structures to the situation at HPC. However, cranes would be visible above the vegetated datum, extending over a wider extent of the view than at HPC. Cranes would, like HPC, be the prominent feature visible in the view, appearing in the core of the construction site. Unlike the

situation at HPC, views from this broad location would also include views to cranes and activity at LEEIE.

vii. **VP18: Residential area at Stogursey, Burgage Road/Lime Street**

**1.6.37** This viewpoint is located at the northern edge of the village of Stogursey, approximately 2.7km south of nearest HPC reactor dome.

**1.6.38** From this location, the existing HPA and HPB structures are not visible (however, HPA structures are visible a short distance to the north of the viewing location) and the construction site is almost fully screened by intervening buildings and vegetation. The only elements of construction activity visible are the upper portions of a small number of cranes, seen above and through vegetation at the edge of the village.

**1.6.39** At night, the construction site is visible, principally as a result of sky glow, and reflected light off visible cranes and a small number of aviation lights.

**1.6.40** This viewpoint is broadly representative of views approximately 2.5km from the nearest SZC reactor dome. Representative viewpoints located approximately 2.5km (+/- 0.5km) from the nearest SZC reactor dome are as follows:

- Representative Viewpoint 1 Sandlings Walk north of Upper Abbey Farm (2km to nearest reactor dome).
- Representative Viewpoint 3, King George's Avenue Leiston (2.3km to nearest reactor dome).
- Representative Viewpoint 5, Footpath south of Leiston Abbey (2.8km to nearest reactor dome).
- Representative Viewpoint 7, Sandlings Walk/Sustrans Route south of Eastbridge (2.5km to nearest reactor dome).
- Representative Viewpoint 8, Footpath north of Leiston Abbey (2.7km to nearest reactor dome).
- Representative Viewpoint 11, Junction of footpaths south west of Halfway Cottages (2.2km to nearest reactor dome).
- Representative Viewpoint 14, Suffolk Coast Path at Minsmere Sluice (2km to nearest reactor dome).

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- Representative Viewpoint 15, Beach at Thorpe Ness (3km to nearest reactor dome).
- Representative Viewpoint 24/25, Leiston Abbey (from top of ruins) (2.7km to nearest reactor dome).
- Representative Viewpoint 26, Offshore – 1800m directly east of Sizewell power stations (2.2km to nearest reactor dome).
- Representative Viewpoint 27, Footpath, Valley Road Allotments, Leiston (2.7km to nearest reactor dome).
- Representative Viewpoint 30, Junction of footpaths, The Walks (2km to nearest reactor dome).
- Representative Viewpoint 32, Footway adjacent to Valley Road, north of railway overbridge (2.6km to nearest reactor dome).

1.6.41 Considering the orientation of this view, the viewing location broadly corresponds to viewpoints immediately west of the main SZC construction site, in the area around Leiston Abbey. Similar to the HPC view, landform and vegetation would screen much of the lower-level activity, however, more cranes are likely to be visible than in the HPC view. Unlike the situation at HPC, views from this broad location would also include views to cranes and other construction activity associated with the green rail route (south), at LEEIE (south east), accommodation campus (north east) and the entrance plaza (east) – all of which bring construction activity closer to the viewing location than is the case at HPC.

viii. [VP19: Stolford, West Somerset Coast Path, PRoW no. WL 23/95](#)

1.6.42 This viewpoint is located on the coastline, approximately 2.6km east of the nearest HPC reactor dome. HPA and HPB are seen at the end of a shallow bay with the HPC construction site largely behind and left (south) of the existing power station structures.

1.6.43 Intervening established belts of vegetation immediately east of the existing power stations and HPC construction site provide a degree of screening to low level activity within the core of the HPC construction site, but views are possible to several emerging and temporary structures. Cranes, forming a relatively tight cluster in the core of the construction site are the most prominent features visible, with the Sarens SGC-250 Super Crane being the most prominent due to its size and colour. Inland (south) of the core

construction area the vegetation is less extensive, and views are possible to the accommodation campus and stockpile areas. The accommodation campus is relatively recessive due to its dark colour. Elsewhere, lighter coloured structures are more prominent. The jetty is not visible from this location.

**1.6.44** At night, artificial lighting from within and reflected off HPA and HPB is visible, along with lighting associated with roads and car parking areas. To the west of HPA and HPB the principal artificial illumination results from the light reflected off cranes. A small number of red aviation lights are visible, but not prominent. Further inland, where intervening vegetation allows more direct and unfiltered views, point source lights are relatively widely spread and a single (training) crane is also illuminated. Lighting associated with the accommodation campus is visible – but relatively recessive compared to the point source lights adjacent.

**1.6.45** This viewpoint is broadly representative of views approximately 2.5km from the nearest SZC reactor dome. Representative viewpoints located approximately 2.5km (+/- 0.5km) from the nearest SZC reactor dome are as follows:

- Representative Viewpoint 1 Sandlings Walk north of Upper Abbey Farm (2km to nearest reactor dome).
- Representative Viewpoint 3, King George's Avenue Leiston (2.3km to nearest reactor dome).
- Representative Viewpoint 5, Footpath south of Leiston Abbey (2.8km to nearest reactor dome).
- Representative Viewpoint 7, Sandlings Walk/Sustrans Route south of Eastbridge (2.5km to nearest reactor dome).
- Representative Viewpoint 8, Footpath north of Leiston Abbey (2.7km to nearest reactor dome).
- Representative Viewpoint 11, Junction of footpaths south west of Halfway Cottages (2.2km to nearest reactor dome).
- Representative Viewpoint 14, Suffolk Coast Path at Minsmere Sluice (2km to nearest reactor dome).

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- Representative Viewpoint 15, Beach at Thorpe Ness (3km to nearest reactor dome).
- Representative Viewpoint 24/25, Leiston Abbey (from top of ruins) (2.7km to nearest reactor dome).
- Representative Viewpoint 26, Offshore – 1800m directly east of Sizewell power stations (2.2km to nearest reactor dome).
- Representative Viewpoint 27, Footpath, Valley Road Allotments, Leiston (2.7km to nearest reactor dome).
- Representative Viewpoint 30, Junction of footpaths, The Walks (2km to nearest reactor dome).
- Representative Viewpoint 32, Footway adjacent to Valley Road, north of railway overbridge (2.6km to nearest reactor dome).

1.6.46 Considering the orientation of this view, the viewing location broadly corresponds to viewing locations south of SZA along the coastline, approximately in the area east of Ness House and gently curving headland at Thorpe Ness (defining the southern extent of Minsmere Haven). In the views from the south of Sizewell, some views would be obscured by coastal cliffs. Elsewhere views to construction activity would be possible. From such locations, intervening established vegetation would screen a greater degree of the lower lying activity (including traffic, vehicles and working areas) and structures to the situation at HPC. However, cranes would be visible above the vegetated datum. Cranes would, like HPC, be the prominent feature visible in the view, in the core of the construction site which extends inland (west) of SZA and SZB. Subject to the viewing location, it is anticipated that the temporary beach landing facility would be visible extending into the marine area off the coastline.

ix. [VP20: Stockland Bristol, PRoW No. BW 32/3](#)

1.6.47 This viewpoint is located inland, approximately 4.2km south east of the nearest HPC reactor dome. The upper sections of the existing HPC Unit 1 and HPC Unit 2 structures are visible to the right (east) of the HPC construction site.

1.6.48 Rising landform and established vegetation screen low level activity, but views are possible to construction activity. Cranes form a relatively tight cluster in the core of the construction site, with the most prominent being the



Luffing Tower Crane (Marine Crane) and Sarens SGC-250 Super Crane. At this distance, the number of cranes is difficult to discern.

1.6.49 At night, reflected light off the existing HPA and HPB structures is notable, along with internal lighting at HPB and lighting associated with adjacent roads and parking areas. The principal artificial illumination in the view is the light reflected off cranes, although point source lights at or near ground level beneath the cranes are also notable. Additional point source lights are visible further south which are associated with construction compounds and materials storage areas to the south of the site. A small number of red aviation lights are visible, but not prominent. The area of sky glow is largely contained to the area above the core of the main construction site, with little sky glow evident associated with HPA and HPB.

1.6.50 This viewpoint is broadly representative of views approximately 4km from the nearest SZC reactor dome. Representative viewpoints located approximately 4km (+/- 0.5km) from the nearest SZC reactor dome are as follows:

- Representative Viewpoint 13, Abbey Lane east of Cakes and Ale Caravan Park (3.7km to nearest reactor dome).
- Representative Viewpoint 17, National Trust Coastguard Cottages car park (3.5km to nearest reactor dome).
- Representative Viewpoint 28, Footpath south of Theberton (3.7km to nearest reactor dome).

1.6.51 Considering the orientation of this view, the viewing location broadly corresponds to viewing locations south west of SZA, approximately in the area south of Aldringham and west of Thorpness. From such locations, intervening established vegetation would screen a greater degree of the lower lying activity (and lighting) to the situation at HPC. However, cranes would be visible above the vegetated datum. Cranes would, like HPC, be the prominent feature visible in the view, appearing in the core of the construction site which extends inland (west) of SZA and SZB.

x. [VP36: Puriton Hill, PRoW no. BW 28/3](#)

1.6.52 This viewpoint is located approximately 12.3km south east of the nearest HPC reactor dome. From this relatively elevated location, the construction site is seen on the distant horizon.

1.6.53 The existing HPC Unit1 and HPC Unit 2 structures are visible east of the main construction site and their mass results in their visual prominence compared to the cranes, which form a relatively tight cluster in the core of the construction site, with the most prominent being the Luffing Tower Crane (Marine Crane) and Sarens SGC-250 Super Crane – albeit they are relatively difficult to discern against the sky under the conditions that the photograph was taken.

1.6.54 At night, the HPA and HPB are illuminated. The principal artificial illumination in the view is the light reflected off cranes. A small number of red aviation lights are visible, but not prominent. Point source lights at or near ground level are also relatively prominent. The area of sky glow is largely contained to the area above the core construction site, and is emphasised by low cloud immediately above the site that was present at the time the photograph was taken.

1.6.55 This viewpoint is broadly representative of views approximately 12.5km from the nearest SZC reactor dome. Representative viewpoints located approximately 12.5km (+/- 0.5km) from the nearest SZC reactor dome are as follows:

- Representative Viewpoint 23, Promenade, Southwold at Junction of East Cliff Road (12.5km to nearest reactor dome).

1.6.56 Considering the orientation of this view, the viewing location broadly corresponds to viewpoints towards the fringes of the SZC LVIA study area to the south west of the site. Reduced elevation and the effects of intervening vegetation would result in greater screening of the SZC construction site, although cranes would be visible, and subject to conditions sky glow above the site including from locations where the cranes would not be visible.

xi. [VP39: Berrow Beach](#)

1.6.57 This viewpoint is located on the coastline, approximately 11.7km north east of the nearest HPC reactor dome. The construction site is seen at the end of Bridgewater Bay against the backdrop of the Quantock Hills. The existing HPC Unit 1 and HPC Unit 2 structures are visible east of the main construction site.

1.6.58 The open coast provides uninterrupted views to the HPC construction site. Individual emerging structures, plant and temporary buildings are difficult to discern at this distance, and the site appears as a tight cluster, dominated by cranes.

- 1.6.59 At night, the construction site is illuminated and contrasts to the more orange lighting associated with HPA and HPB. Point source lights are noted. However, the principal element of artificial lighting in the view is the light reflected off cranes. A small number of red aviation lights are visible, but not prominent. Lighting at the jetty and extends the area of artificial illumination into the marine environment. The area of sky glow is largely contained to the area above the site.
- 1.6.60 This viewpoint is broadly representative of views approximately 11.5km from the nearest SZC reactor dome. There are no SZC representative viewpoints located approximately 11.5km (+/- 0.5km) from the nearest SZC reactor dome.
- 1.6.61 Considering the orientation of this view, this viewing location broadly corresponds to the marine environment approximately 8km off the coastline at Aldeburgh south east of Sizewell C.
- 1.6.62 The viewing location can also be regarded as broadly representing the nature of views from Southwold Promenade, approximately 12.5km north east of the nearest SZC reactor dome (representative viewpoint 23). In the views from Southwold, the existing SZA and SZB structures would be seen behind (south) of the construction site – unlike the situation at HPC. However, the behaviour of the site in views would be similar, with the construction site visible across an open coastal bay.
- 1.7 **Conclusion**
- 1.7.1 The foregoing report presents the material necessary to address stakeholders concerns regarding the lack of material in the SZC DCO that illustrates the visual impact of construction activity and plant during the day and at night.
- 1.7.2 It demonstrates that HPC photography, taken at or near peak construction activity, can act as a suitable proxy to illustrate the visual characteristics of activity and plant that can reasonably be expected to be seen at SZC during the day and in night-time conditions at a similar point in the construction phasing. It is acknowledged that there are significant differences in the size and orientation between the HPC and SZC temporary construction areas and in the nature of the viewing locations. As such it is recommended that the HPC photographs and supporting narrative are read alongside the visualisations submitted as part of the DCO and in response to Procedural Decision Notice 4.

- 1.7.3 It supports the approach of SZC Co. not to produce photomontage visualisations that illustrate construction phase activity at SZC, recognising the acknowledged limitations of the material prepared to illustrate the construction phase of the Wylfa Newydd Project.

## APPENDIX A: SZC REPRESENTATIVE VIEWPOINTS

Representative Viewpoint Number	Representative Viewpoint Details	Distance to Nearest Reactor Dome (km)	Representative Viewpoint Photograph Panel Figure No. (Doc. Ref. 6.3)	Construction Phase Parameters Based Photowire Visualisation Figure No. (Doc. Ref. 6.3)	Construction Phase Parameters Based Photowire Visualisation Figure No. (Procedural Decision 4, Appendix A)
1	Sandlings Walk north of Upper Abbey Farm	2.0	13.9.01	-	
2	Permissive path at Kenton Hills	0.7	13.9.02	-	
3	King George's Avenue, Leiston	2.3	13.9.03	-	Figure 12
4	Lover's Lane south of Fiscal Policy	1.9	13.9.04	-	
5	Footpath south of Leiston Abbey	2.8	13.9.05	-	
6	Suffolk Coast Path east of Goose Hill	0.5	13.9.06	-	
7	Sandlings Walk/Sustrans Route south of Eastbridge	2.5	13.9.07	-	
8	Footpath north of Leiston Abbey	2.7	13.9.08	13.10.33	
9	Sizewell Gap south of Greater Gabbard Sub-Station	1.5	13.9.09	-	
10	Suffolk Coast Path and Sandlings Walk east of Hill Wood	1	13.9.10	-	

**NOT PROTECTIVELY MARKED**

11	Junction of footpaths south west of Halfway Cottages	2.2	13.9.11	-	Figure 14
12	Bridleway south east of Reckham Lodge	1.3	13.9.12	-	
13	Abbey Lane east of Cakes and Ale Caravan Park	3.7	13.9.13	-	
14	Suffolk Coast Path at Minsmere Sluice	2.0	13.9.14	13.10.58	
15	Beach at Thorpe Ness	3.0	13.9.15	-	
16	RSPB Minsmere (Whin Hill)	3.1	13.9.16	13.10.63	
17	National Trust Dunwich Coastguard Cottages Car Park	3.5	13.9.17	13.10.68	
18	B1069 (Bull's Hall entrance)	5.7	13.9.18	-	
19	Yoxford Road, west of Westleton	6.1	13.9.19	-	
20	Suffolk Coast Path north of Aldeburgh	5.7	13.9.20	-	
21	Aldeburgh beach car park	6.3	13.9.21	-	
22	B1119 east of Saxmundham	8.0	13.9.22	-	
23	Promenade, Southwold at Junction of East Cliff Road	12.5	13.9.23	-	
24/25	Leiston Abbey (from top of ruins)	2.7	13.9.24 13.9.15	-	

**NOT PROTECTIVELY MARKED**

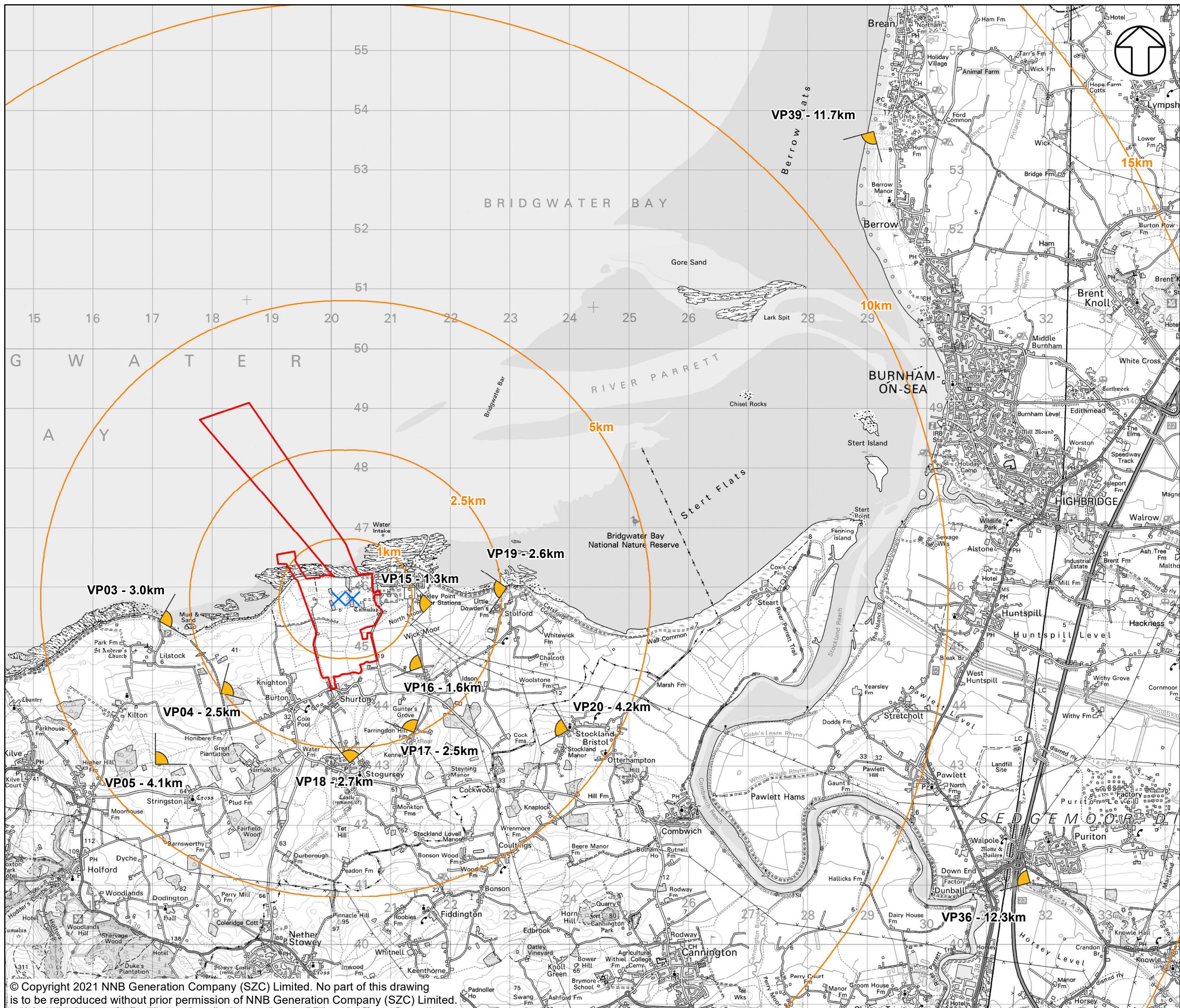
**NOT PROTECTIVELY MARKED**

26	1800m directly east of Sizewell power stations	2.2	13.9.26	-	
27	Footpath, Valley Road Allotments, Leiston	2.7	13.9.27	-	Figure 16
28	Footpath south of Theberton	3.7	13.9.28	13.10.97	
29	Sandlings Walk at Home Farm	1.6	13.9.29	-	
30	Junction of Footpaths, The Walks	2.0	13.9.30	-	
31	Shingle beach east of secondary sea defence bund	0.7	13.9.31	-	
32	Footway adjacent to Valley Road, north of railway overbridge	2.6	13.9.32	13.10.107	Figure 18

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## APPENDIX B: FIGURES





NOTES

KEY

- HINKLEY POINT C DEVELOPMENT SITE BOUNDARY
- X CENTRE POINT OF REACTOR
- DISTANCE FROM REACTORS
- ▶ VIEWPOINT LOCATIONS



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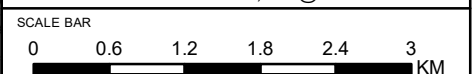


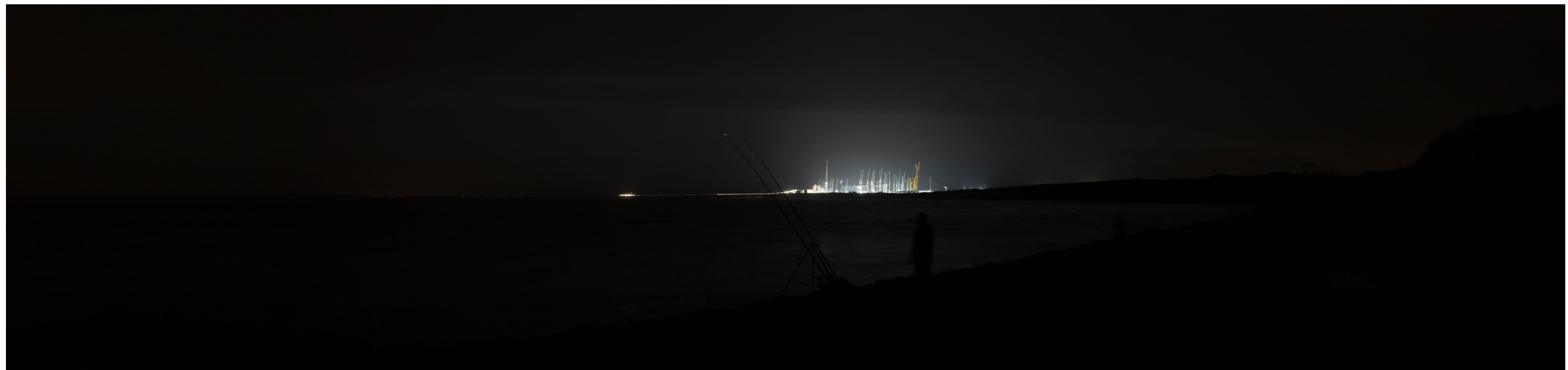
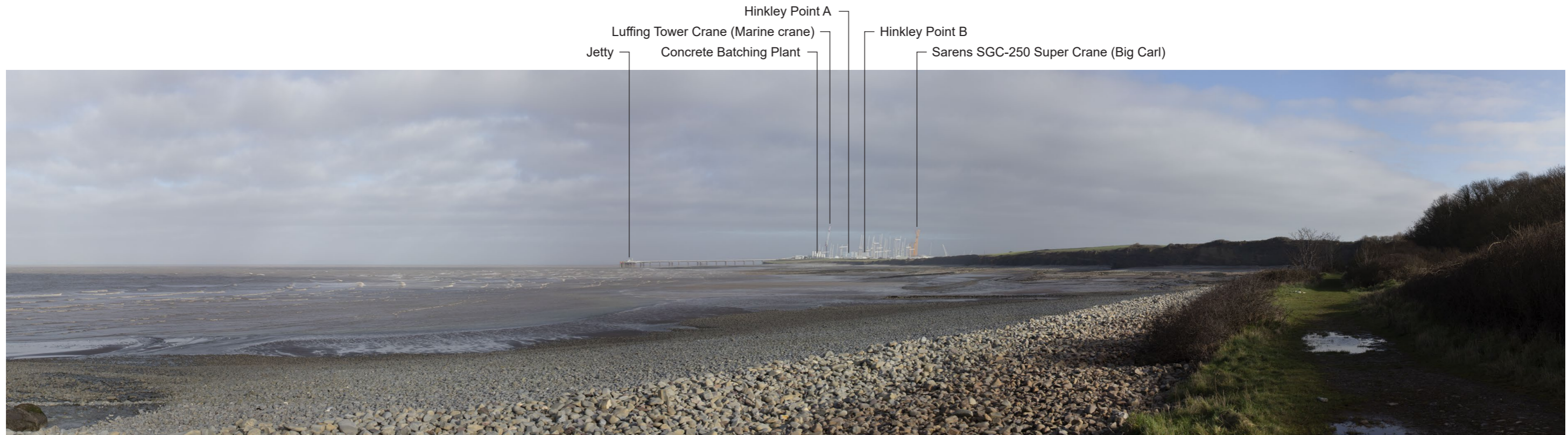
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 HINKLEY POINT C  
 CONSTRUCTION PHASE VISUAL ANALYSIS

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 VIEWPOINT LOCATIONS

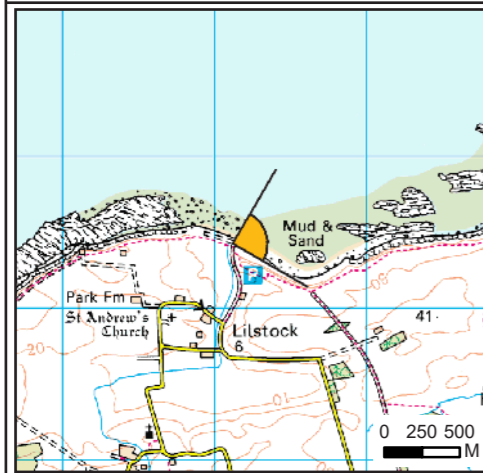
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DATE: MAR 2021	DRAWN: S.G.	SCALE: 1:60,000 @A3	REVISION: 3.0
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**VIEWPOINT INFORMATION**

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 EYE LEVEL (AOD): 7.1M  
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 LENS: SIGMA 50MM F1.4  
 CAMERA HEIGHT: 1.5M AGL  
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 NIGHT - 29/01/2021 19:25

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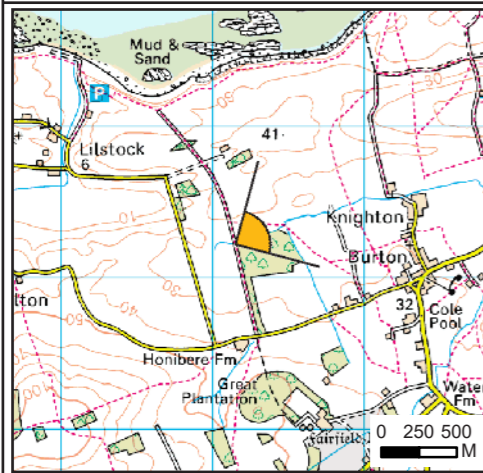
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DRAWING TITLE: CONSTRUCTION VIEWPOINT 3: WEST SOMERSET COAST PATH, LILSTOCK, PROW NO. WL 24/10 PHOTOGRAPH PANEL		
DRAWING NO: FIGURE 2.1		
DATE: MAR 2021	DRAWN: S.G.	SCALE: NTS

Luffing Tower Crane (Marine crane)      Hinkley Point A      Sarens SGC-250 Super Crane (Big Carl)      Hinkley Point B  
 Temporary Stockpiles



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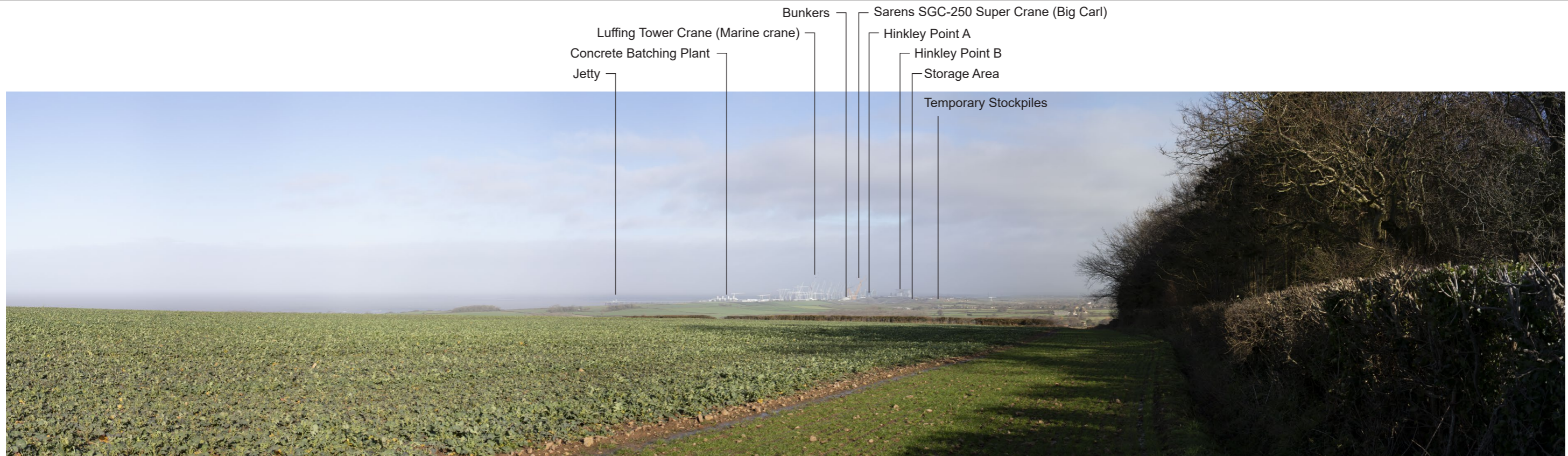
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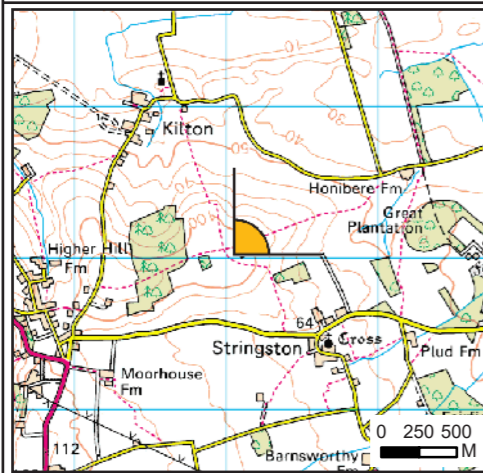
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DRAWING NO: FIGURE 2.2		
DATE: MAR 2021	DRAWN: S.G.	SCALE: NTS



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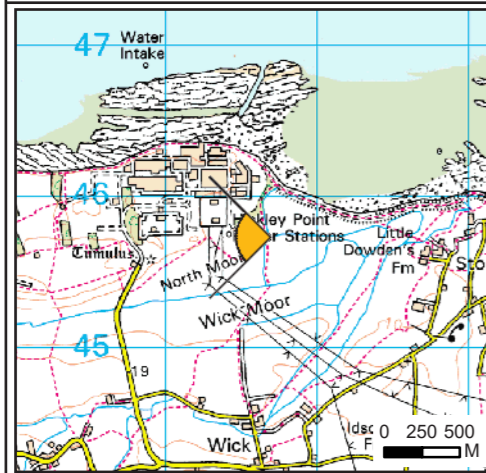
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DRAWING TITLE: CONSTRUCTION VIEWPOINT 5: HIGHER HILL, PROW NO. 24/3 PHOTOGRAPH PANEL		
DRAWING NO: FIGURE 2.3		
DATE: MAR 2021	DRAWN: S.G.	SCALE: NTS



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**VIEWPOINT INFORMATION**

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 LENS: SIGMA 50MM F1.4  
 CAMERA HEIGHT: 1.5M AGL  
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 NIGHT - 03/02/2021 18:20

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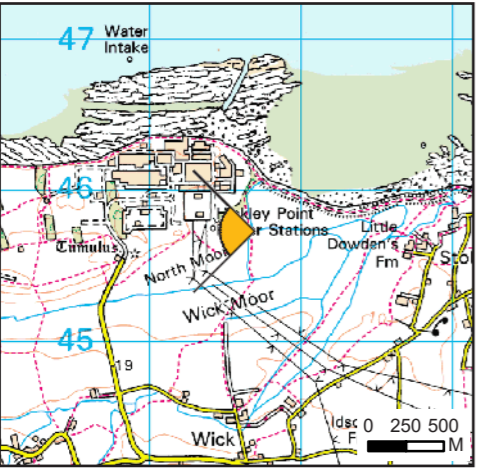

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DRAWING NO: FIGURE 2.4A		
DATE: MAR 2021	DRAWN: S.G.	SCALE: NTS

Hinkley Point B



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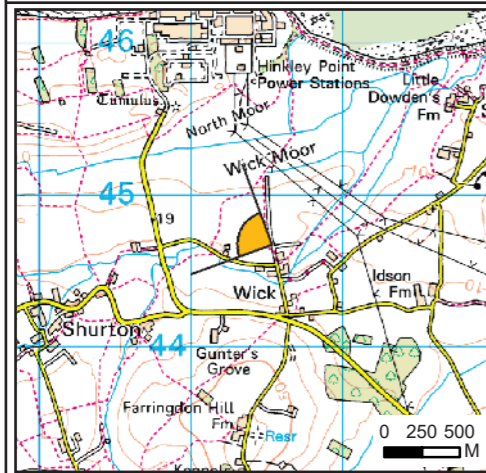
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 PHOTOGRAPH PANEL

DRAWING NO:  
 FIGURE 2.4B

DATE: MAR 2021      DRAWN: S.G.      SCALE: NTS



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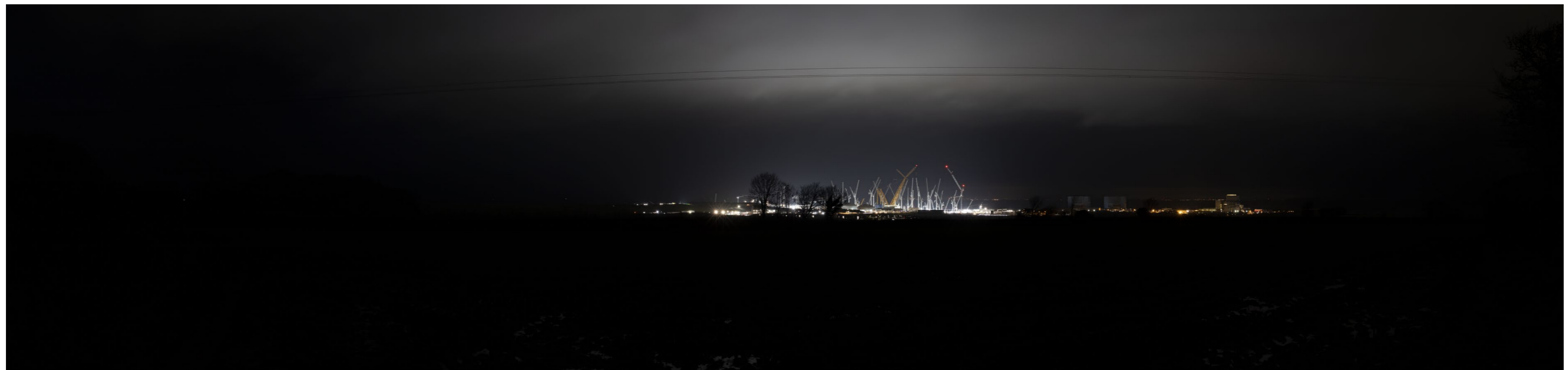
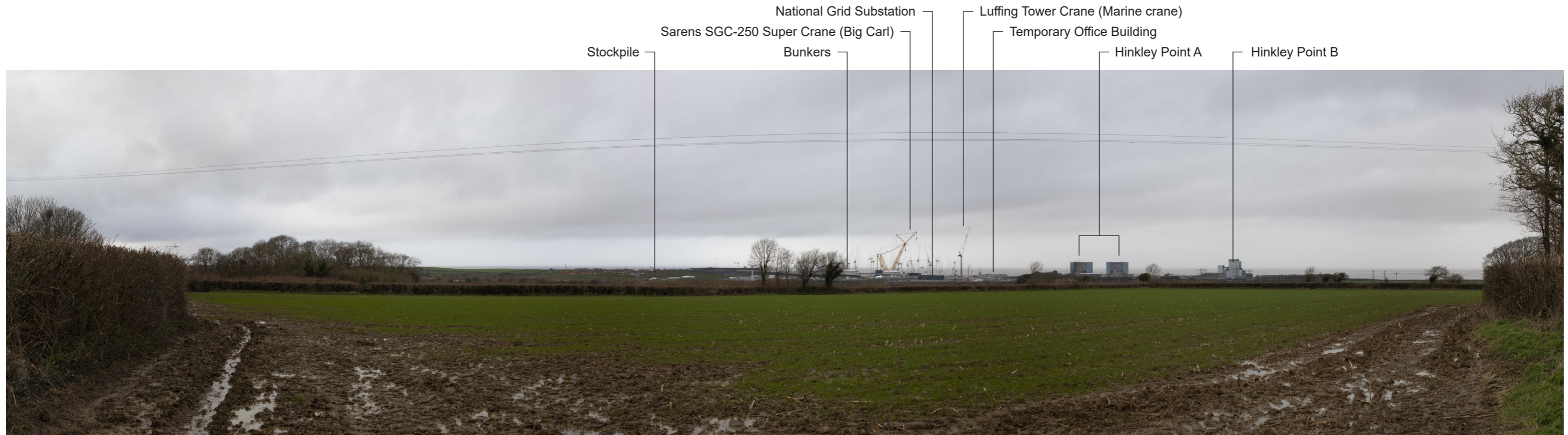
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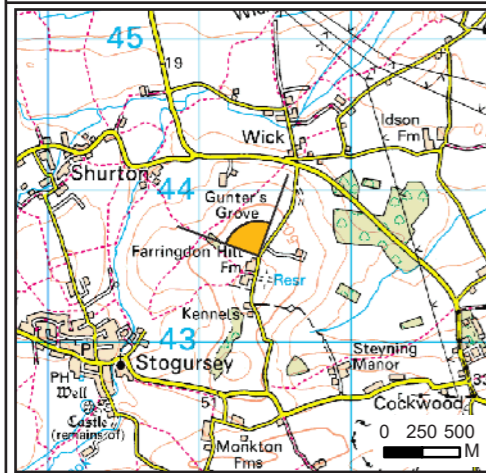
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DATE: MAR 2021	DRAWN: S.G.	SCALE: NTS



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DRAWING TITLE: CONSTRUCTION VIEWPOINT 17: FARRINGTON HILL LANE (FARRINGTON FARM) PHOTOGRAPH PANEL		
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DATE: MAR 2021	DRAWN: S.G.	SCALE: NTS



Luffing Tower Crane (Marine crane) — Sarens SGC-250 Super Crane (Big Carl)



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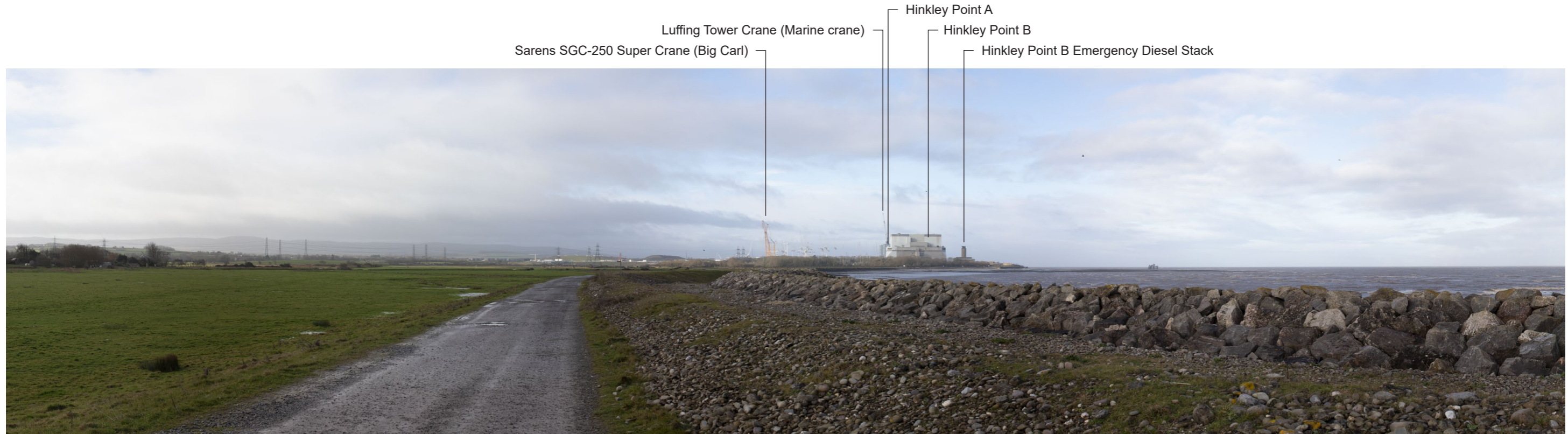
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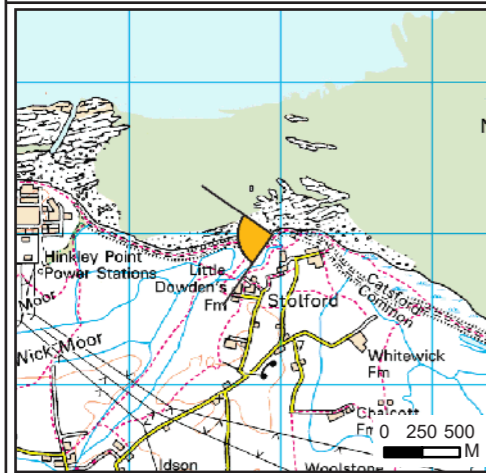
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DRAWING TITLE: CONSTRUCTION VIEWPOINT 18: RESIDENTIAL AREA AT STOGURSEY, BURGAGE ROAD/LIME STREET PHOTOGRAPH PANEL		
DRAWING NO: FIGURE 2.7		
DATE: MAR 2021	DRAWN: S.G.	SCALE: NTS



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DRAWING NO: FIGURE 2.8		
DATE: MAR 2021	DRAWN: S.G.	SCALE: NTS



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**VIEWPOINT INFORMATION**

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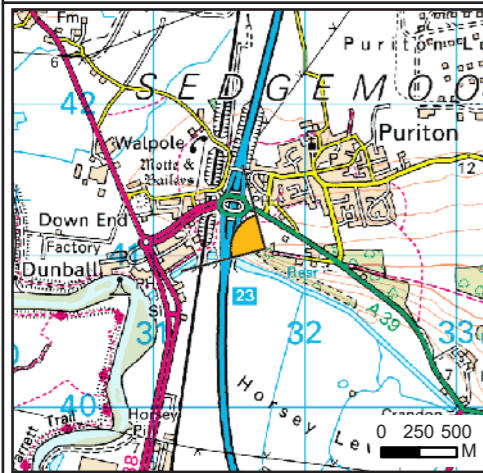
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DRAWING NO: FIGURE 2.9		
DATE: MAR 2021	DRAWN: S.G.	SCALE: NTS

Luffing Tower Crane (Marine crane)  
 Sarens SGC-250 Super Crane (Big Carl)

Hinkley Point A  
 Hinkley Point B



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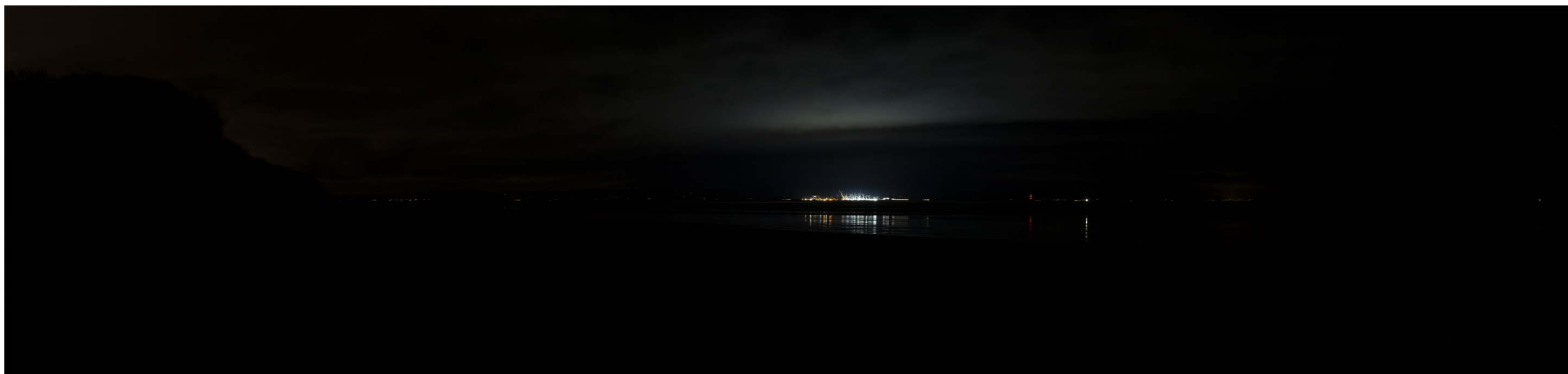
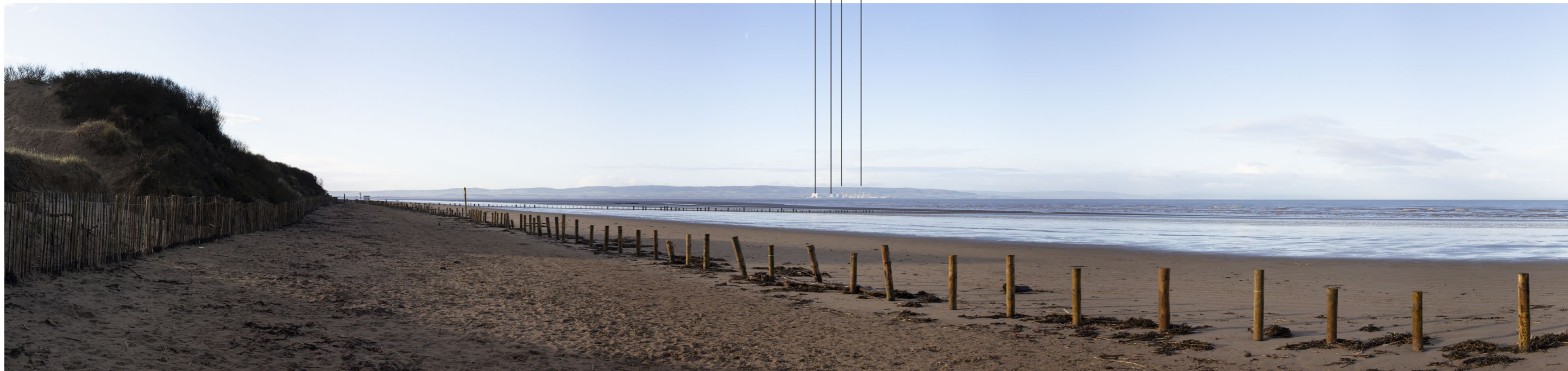
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 PHOTOGRAPH PANEL

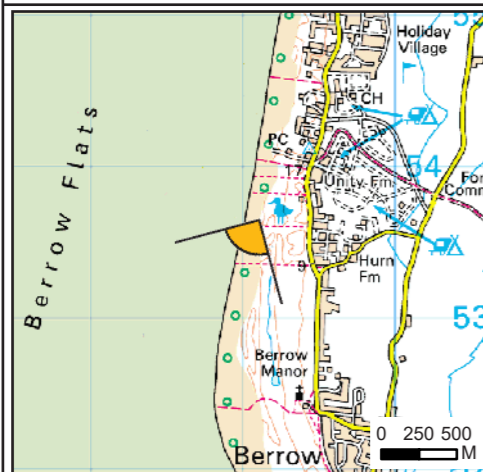
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DATE: MAR 2021 DRAWN: S.G. SCALE: NTS

Hinkley Point A  
 Hinkley Point B  
 Sarens SGC-250 Super Crane (Big Carl)  
 Luffing Tower Crane (Marine crane)



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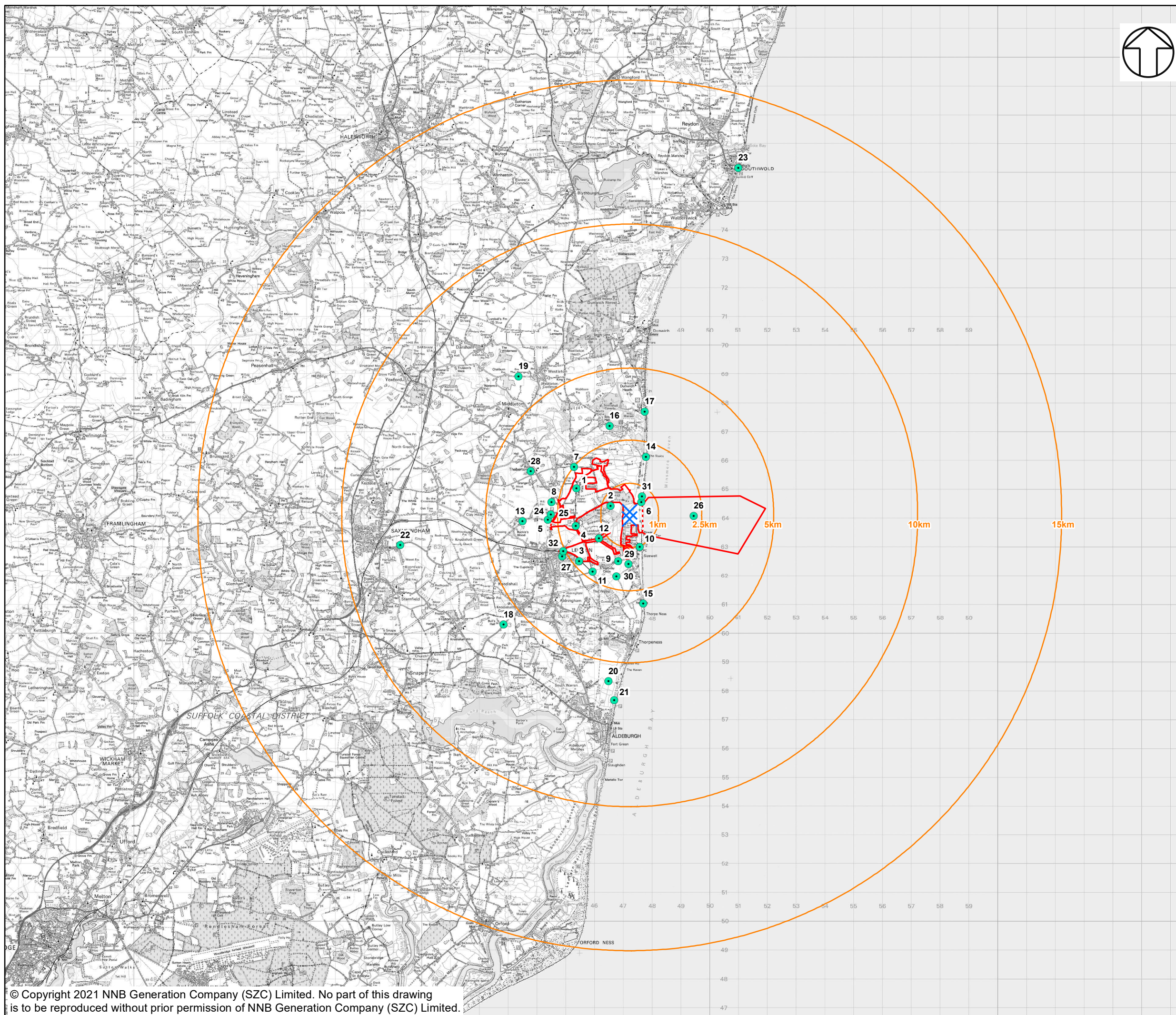
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DRAWING NO: FIGURE 2.11		
DATE: MAR 2021	DRAWN: S.G.	SCALE: NTS



NOTES

KEY

- SIZEWELL C MAIN DEVELOPMENT SITE BOUNDARY
- - - DEMARCATION LINE
- X CENTRE POINT OF REACTOR
- DISTANCE FROM REACTORS
- REPRESENTATIVE VIEWPOINTS



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 CONSTRUCTION PHASE VISUAL ANALYSIS

**DRAWING TITLE:**  
 SIZEWELL C LVIA REPRESENTATIVE  
 VIEWPOINT LOCATIONS

**DRAWING NO:**  
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DATE:	DRAWN:	SCALE:	REVISION:
MAR 2021	S.G.	1:125,067 @A3	2.0

