

BY E-MAIL

Ms Wendy McKay
Lead Member of the Panel of Examining
Inspectors – Sizewell C Project
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Ref EN010012

6 July 2021

Dear Ms McKay

**THE NUCLEAR DECOMMISSIONING AUTHORITY AND MAGNOX LIMITED'S ATTENDANCE
AT THE ISSUE SPECIFIC HEARING ON THE DRAFT DEVELOPMENT CONSENT ORDER –
6 JULY 2020**

We act on behalf of the Nuclear Decommissioning Authority ("**NDA**") and Magnox Limited ("**Magnox**"), "affected persons" under the Planning Act 2008 in respect of the application for a development consent order for the Sizewell C Project (the "**Application**").

The NDA and Magnox would like to thank the Examining Authority for its invitation to speak at the Issue Specific Hearing on 6 July 2021 (the "**ISH**") given the NDA and Magnox's concerns over the draft Development Consent Order ("**dDCO**"). These concerns were set out in the NDA and Magnox's joint Written Representation (REP2-410).

The NDA and Magnox have been in discussions with the Applicant over the need for Protective Provisions and consequential amendments to the dDCO. The detailed agenda for the ISH sets out that Protective Provisions will not be discussed at the ISH and will instead be addressed at the Compulsory Acquisition Hearings to be held on 17 – 20 August 2021. As NDA and Magnox's concerns are mainly in relation to compulsory acquisition and Protective Provisions, we are writing to confirm that NDA and Magnox will not be attending the ISH, but instead will be relying on written submissions in relation to the published hearing agenda and any consequential matters arising from that hearing.

Amendments to the dDCO

1. Section 151 of the Planning Act 2008

- a. The NDA and Magnox do not agree with the Applicant's proposals to obtain Class 4 powers in respect of any land that is within the boundary of the nuclear site licence, held by Magnox, for the Sizewell A Nuclear Site.
- b. The NDA and Magnox are of the view that the compulsory acquisition of any rights etc. in such land by the Applicant would be wholly inconsistent with the purpose of the strict regulatory regime established by the nuclear site licence and the Nuclear Installations Act 1965, and that as such it would not be in the public interest.

- c. Section 151(a) of the Planning Act 2008 expressly prohibits a DCO from excluding or modifying the application of the Nuclear Installations Act 1965, which we believe would be the effect of the dDCO in its current form.

2. Amendments to Article 26 of the dDCO

- a. The NDA and Magnox are of the view that Article 26(2)(a) is open to interpretation and that the Explanatory Memorandum offers no assistance in respect of this part of the Article. This requires remedy, certainty and protection for NDA and Magnox.
- b. Regardless of Article 26, NDA and Magnox are of the opinion that land plots MDS/05/06 and MDS/05/07 should be excluded from the Book of Reference altogether as NDA has responsibility for decommissioning and cleaning up MDS/05/06 and MDS/05/07 in accordance with the Energy Act 2004 and the Sizewell A directions. NDA and Magnox welcome the removal of parts of MDS/05/06 from the Order Limits as part of the changes made by the Applicant to the Application on 22 January 2021, however MDS/05/06 should be excluded from the Book of Reference in its entirety.

3. Amendments to Article 9 of the dDCO

- a. The NDA and Magnox are in discussions with the Applicant in relation to a Co-operation Agreement to enable the continuing decommissioning of the Sizewell A site, whilst the Applicant can construct and then operate its new power station.
- b. The NDA and Magnox require a restriction in Article 9 of the dDCO that prevents the transfer or grant of any part of the DCO that relates to or affects all or any part of the NDA and Magnox site or interests unless and until the transferee or lessee has first entered into a nuclear site licensees' Co-operation Agreement, save where the NDA, Magnox and the undertaker agree otherwise.

Whilst the NDA and Magnox support the principal of the Application and have been cooperative with the Applicant throughout and continue to be, the NDA and Magnox cannot support the dDCO in its current form. NDA and Magnox maintain their objections set out in their written submissions to date.

We trust that this letter is helpful to the Examining Authority in understanding the NDA and Magnox's position on the dDCO and in facilitating best use of Examination and Hearing time. However, should the Examining Authority prefer for NDA and Magnox to be in attendance at the ISH, please do let us know.

Yours sincerely

Pinsent Masons LLP

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