



The Sizewell C Project

9.10.19 Statement of Common Ground - Magnox Limited and Nuclear Decommissioning Authority

Revision: 2.0
Applicable Regulation: Regulation 5(2)(q)
PINS Reference Number: EN010012

July 2021

Planning Act 2008
Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009



CONTENTS

1	INTRODUCTION.....	1
1.1	Status of the SoCG	1
1.2	Purpose of this document.....	1
1.3	The role of the NDA and Magnox.....	2
1.4	Structure of this Statement of Common Ground	2
2	POSITION OF THE PARTIES.....	2

TABLES

Table 2.1: Position of Parties	11
--------------------------------------	----

1 INTRODUCTION

1.1 Status of the SoCG

1.1.1 This Statement of Common Ground ('SoCG') has been prepared in respect of the application for development consent under the Planning Act 2008 ('the Application') for the proposed Sizewell C Project. This version [version 02], dated 23 July 2021, has been prepared following regular discussions between NNB Generation Company (SZC) Limited ('SZC Co.') as the Applicant and the Nuclear Decommissioning Authority (NDA) and Magnox Limited (Magnox), together referred to as 'the parties'. While the NDA and Magnox have registered individually as Interested Parties, it is their intention that they will act jointly where practicable, in order to assist the Examination.

1.1.2 The Applicant is continuing to work with the NDA and Magnox to develop this 'live' SoCG to a status where it can be signed and submitted as a jointly agreed statement. It will be amended as the Examination progresses in order to enable a final, agreed version to be submitted to the Examining Authority as soon as it can be settled and in any event by Deadline 9 before the close of Examination.

1.2 Purpose of this document

1.2.1 The purpose of this 'live' SoCG is to set out the position of the parties arising from the application for development consent for the construction and operation of the Sizewell C nuclear power station and together with the proposed associated development (hereafter referred to as 'the Sizewell C Project'). This SoCG is being submitted to the Examining Authority in relation to the Sizewell C Project under section 37 of the Planning Act 2008.

1.2.2 This SoCG has been prepared in accordance with the 'Guidance for the examination of applications for development consent' published in March 2015 by the Department of Communities and Local Government (hereafter referred to as 'DCLG guidance').

1.2.3 The aim of this SoCG is, therefore, to inform the Examining Authority and provide a clear position on the state and extent of discussions and agreement or otherwise between the parties on matters relating to the proposed Sizewell C Project.

1.2.4 This SoCG does not seek to replicate information which is available elsewhere within the DCO application documents. All DCO application and

Examination documents are available on the Planning Inspectorate website.

1.3 The role of the NDA and Magnox

1.3.1 The NDA is a statutory corporation established by the Energy Act 2004. The NDA is responsible for ensuring that the UK's legacy nuclear sites are decommissioned and cleaned-up safely, securely, cost-effectively and in a manner that protects people and the environment.

1.3.2 The NDA's principal function, as established by Designating Directions made by the Secretary of State pursuant to section 3 of the Energy Act 2004, is to secure the decommissioning and cleaning-up of those nuclear sites and installations for which it has designated responsibility.

1.3.3 On 3 December 2004, the Secretary of State for Trade and Industry made Directions to the NDA in respect of the existing Sizewell A Nuclear Site (the "Sizewell A Directions"). The Sizewell A Directions give the NDA statutory responsibility for the decommissioning and cleaning-up of the Sizewell A Nuclear Site, the geographical extent of which is more particularly defined in Schedule 1 and Annex A to the Sizewell A Directions.

1.3.4 Decommissioning activities at the Sizewell A Nuclear Site are carried out on behalf of the NDA by the site tenant, Magnox, being a wholly owned subsidiary of the NDA, in accordance with detailed lease and contractual arrangements with the NDA. Magnox is also the holder of the nuclear site licence for the Sizewell A Nuclear Site, granted pursuant to the Nuclear Installations Act 1965.

1.4 Structure of this Statement of Common Ground

1.4.1 **Chapter 2** provides a schedule which details the position on relevant matters between the parties, including any matters where discussions are ongoing.

2 POSITION OF THE PARTIES

2.1.1 **Table 2.1** provides an overview of the position of the parties and any further actions planned.

2.1.2 The NDA and Magnox require Protective Provisions to protect their statutory obligations and duties and accordingly, do not agree with the powers in the draft DCO that affect their land, interests and statutory interests and responsibilities until the Protective Provisions are agreed.

Table 2.1: Position of Parties

Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
Use of Compulsory Powers over NDA/Magnox land					
1.a	<p>The NDA is a Category 1 person, and Magnox is a Category 1, Category 2 and Category 3 person in respect of a significant number of plots of land identified in the Applicant's Book of Reference.</p> <p>The Applicant is seeking the following powers over land in respect of which the NDA and Magnox is a Category 1 or Category 2 person: Class 1 – acquisition of all freehold and leasehold interests; Class 4 – override easements and other rights and extinguishment of all private rights</p> <p>The following plots are included within the DCO of which NDA/Magnox have an interest:</p>	<p>NDA/Magnox oppose the compulsory acquisition of any of this land or the extinguishment of any rights etc, in any of the plots of land which are: (a) within the Nuclear Site Licence held by Magnox for the Sizewell A Nuclear Site and (b) the designated boundary of the Sizewell A Nuclear Site for which NDA has statutory responsibility for decommissioning and cleaning up (operational land).</p>	<p>The applicant does not intend to use compulsory acquisition in relation to interests held by Magnox/NDA within the Sizewell A Nuclear Site and designated boundary of the Sizewell A Nuclear Site for which NDA has statutory responsibility for decommissioning and cleaning up. Further discussions will be had to ensure the draft DCO (dDCO) provides the required protection. Article 26(2)(c) provides protection in relation to the compulsory acquisition of plots (a) within the Nuclear Site Licence held by Magnox for the Sizewell A Nuclear Site and (b) the designated boundary of the Sizewell A Nuclear Site for which NDA has statutory responsibility for decommissioning and cleaning up (operational land). No further</p>	<p>Continued engagement between the parties to seek to finalise agreed wording of the Protective Provisions.</p>	<p>In Progress</p>

NOT PROTECTIVELY MARKED

Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
	<p>Category 1 – Tenant/Lessee/Occupier in the following plots:</p> <ul style="list-style-type: none"> MDS/02/28 MDS/05/02 		amends are proposed to Article 26(2)(c) at this stage, however, once the Protective Provisions are agreed some elements of this Article may no longer be required.		
1.b	<ul style="list-style-type: none"> MDS/05/06 MDS/05/07 <p>Category 2 – NDA/Magnox has an interest in the following plots:</p> <ul style="list-style-type: none"> MDS/01/01 MDS/01/06 MDS/01/07 MDS/02/03 MDS/02/04 MDS/02/05 MDS/02/10 MDS/02/28 MDS/04/01 	<p>NDA/Magnox believe that land plots MDS/05/06 and MDS/05/07 should be excluded from the Book of Reference altogether. The inclusion of these is inconsistent with the regulatory regime established by the Nuclear Site Licence and Nuclear Installation Act 1965. 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 NDA/Magnox believe would be the effect of the dDCO in its current form.</p>	<p>Plots MDS/05/06 and MDS/05/07, which form part of the SZA NSL, are both included in Article 26(2)(a) which precludes SZC Co. from acquiring them compulsorily. They are included in the Book of Reference as they are required for SZB's proposed outage laydown area, which is currently consented under the Town and Country Planning Act relocated facilities planning permissions (Ref. Nos DC/19/1637/FUL and DC/20/4646/FUL). The dDCO includes Article 26(2)(c) which will precludes the Applicant from compulsorily acquiring any rights held by NDA/Magnox in the plots listed.</p>	Continued engagement between the parties to seek to finalise agreed wording of the Protective Provisions.	In Progress

NNB Generation Company (SZC) Limited. Registered in England and Wales. Registered No. 6937084. Registered office: 90 Whitfield Street, London W1T 4EZ

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
	<ul style="list-style-type: none"> MDS/04/02 MDS/04/03 MDS/04/04 MDS/04/05 MDS/04/06 MDS/04/09 MDS/04/10 MDS/05/02 MDS/05/03 MDS/05/04 MDS/05/08 MDS/05/09 MDS/05/13 		<p>Further protections if required in relation to Class 4 can be considered alongside discussions relating to Protective Provisions to ensure Magnox and NDA can continue to carry out their regulatory responsibilities and statutory functions in accordance with the Energy Act 2004.</p> <p>The drafting within Article 26(2)(c) alongside the inclusion of Protective Provisions means the DCO will not exclude or modify the application of the Nuclear Installations Act 1965</p>		
1.c	<ul style="list-style-type: none"> MDS/06/01 <p>Article 26(2)(a) of the draft DCO precludes the applicant from acquiring compulsorily any interests in any of the land plots as follows:</p> <ul style="list-style-type: none"> MDS/04/09 	<p>It is noted that parts (but not all) of MDS/05/06 have now been removed from the Order Limits as part of the changes made by the Applicant to the Application on 22 January 2021.</p>	<p>Parts of plot MDS/05/06 has now been removed from the order limits as part of the changes made to the Application on 21 January 2021. The area of plot MDS/05/06 which remains is that required for SZB's proposed outage laydown area, which is currently consented under the Town and Country Planning</p>	<p>Continued engagement between the parties to seek to finalise agreed wording of the Protective Provisions.</p>	<p>In Progress</p>

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
	<ul style="list-style-type: none"> MDS/04/10 MDS/05/02 MDS/05/03 		Act relocated facilities planning permissions (Ref. Nos DC/19/1637/FUL and DC/20/4646/FUL).		
1.d	<ul style="list-style-type: none"> MDS/05/04 MDS/05/06 MDS/05/07 MDS/05/08 MDS/05/09 MDS/05/13 MDS/06/01 MDS/06/02 <p>Article 30 of the draft DCO permits the applicant to acquire compulsorily the existing rights, create and acquire new rights and impose such restrictive covenants as are described in the Book of Reference.</p>	Neither the NDA nor Magnox have seen any reporting or evidence that the Applicant has undertaken diligent enquiry as to why the relevant Class 4 powers are required, or indeed how the compulsory acquisition of Class 4 powers may affect more widely the ability of the NDA and Magnox to carry out their respective statutory functions and regulatory responsibilities. As such, the NDA and Magnox are now carrying out that diligence themselves based on the published application.	Protective Provisions are being negotiated with a view to providing any protections required in relation to Class 4 powers.	Continued engagement between the parties to seek to finalise the wording of agreed Protective Provisions.	In Progress
1.e		NDA/Magnox welcome the wording of Article 26(2)(a), however they believe it is open to interpretation and the	No further amends are proposed to this Article, once Protective Provisions are agreed it's assumed	Continued engagement between the parties to seek	In Progress

NNB Generation Company (SZC) Limited. Registered in England and Wales. Registered No. 6937084. Registered office: 90 Whitfield Street, London W1T 4EZ

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
		Explanatory Memorandum offers no assistance in respect of this part of the Article.	this Article will no longer be relevant to NDA/Magnox.	to finalise the wording of agreed Protective Provisions.	
1.f		There are various additional plots that NDA/Magnox wish to see included within the Article 26(2)(a), including MDS/02/28. The NDA and Magnox are also of the view that the protection afforded to the Sizewell B Nuclear Site in Article 26(2)(b) of the Draft DCO should be extended also to the Sizewell A Nuclear Site (e.g. all operational land).	With regards to the additional plots which NDA/Magnox wish to see included within Article 26(2)(a) the applicant will review and consider these requests and discuss with the NDA/Magnox. NDA and Magnox have confirmed they no longer have an interest in MDS/02/28 – the Book of Reference will be updated to reflect this and as such there is no need to include this plot in Article 26(2)(a).	No	Agreed with regard to plot MDS/02/28 In progress with regard to additional plots and interests
1.g		NDA/Magnox wish to have a discussion with the Applicant with regards to those plots which are subject to Article 30	No further amends are proposed to this Article, once Protective Provisions are agreed it's assumed	Continued engagement between the parties to seek	In Progress

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
		which they are seeking to acquire compulsorily.	this Article will no longer be relevant to NDA/Magnox.	to finalise the wording of agreed Protective Provisions	
1.f		<p>The NDA and Magnox note Article 26(2)(a) of the Draft DCO which precludes the undertaker from acquiring compulsorily any interests in any of the land plots detailed in column (2) of Part 1 of Schedule 15 of the Draft DCO, namely:</p> <ul style="list-style-type: none"> • MDS/04/09 • MDS/04/10 • MDS/05/02 • MDS/05/03 • MDS/05/04 • MDS/05/06 • MDS/05/07 • MDS/05/08 	Article 26(2)(a) of the Draft DCO precludes the undertaker from acquiring compulsorily any of Magnox and the NDA's interests in the land plots detailed in column (2) of Part 1 of Schedule 15. We believe clarity has been provided by the applicant.	No	Agreed

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
		<ul style="list-style-type: none"> • MDS/05/0 • MDS/05/13 • MDS/06/01 • MDS/06/02. <p>Clarity is required as to why the Applicant may need to acquire the plots detailed in column (2) of Part 1 of Schedule 15 to the Draft DCO, given that Article 26(2) of the Draft DCO does not preclude acquisition of those plots by agreement and commercial discussions are only progressing regarding plot MDS/05/07.</p>			
1.h		The surrender of plot MDS/02/28 has now been completed and therefore Magnox is no longer a Category 1 person for this plot of land	The surrender of plot MDS/02/28 has now been completed, however until Land Registry has been updated Magnox will be noted as a Category 1 person for this plot of land	No	Agreed

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
1.i		The NDA and Magnox also note that Article 30 should be made subject to Article 26.	Updated drafting has been included in the dDCO at deadline 2 which should address this matter	No	Agreed
Protective Provisions					
2.	Protective Provisions not included for NDA/Magnox in the latest draft of the DCO.	NDA/Magnox are of the view that, although they are not statutory undertakers they do have statutory functions and regulatory responsibilities. In particular, the Protective Provisions should be included in the DCO and will need to ensure that access is maintained at all times for all emergency, operational and user purposes and be in accordance with all safety and emergency response requirements in order to satisfy the demands placed upon the NDA and Magnox by the nuclear site licence and wider regulatory regime.	The Applicant agrees that Protective Provisions should be included in the DCO and these are currently being negotiated.	Continued engagement between the parties to seek to finalise agreed wording of the Protective Provisions.	In Progress

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
		The NDA and Magnox are of the view that Protective Provisions are required in the Draft DCO in order to reflect and maintain principles of co-operation and co-existence and preserving and protecting their respective abilities to carry out their statutory functions and regulatory responsibilities.			
Implications for nuclear site licence and ongoing decommissioning and interaction with the Sizewell A Directions and site cooperation					
3.a	<p>Within the Book of Reference there are a number of plots that abut the Sizewell A Nuclear Site Licence being plots:</p> <ul style="list-style-type: none"> MDS/05/02 MDS/05/13 <p>Also included are plots that fall within land which the NDA has responsibility for decommissioning and cleaning up in accordance with the Energy Act 2004 and Sizewell A</p>	The NDA/Magnox are concerned over the implication of the compulsory acquisition powers for those plots that abut the Nuclear Site Licence area, being plots MDS/05/02 and MDS/05/13. They would welcome clarification from the Applicant over how the powers in the draft DCO could affect both the Nuclear Site Licence and those plots that abut the Nuclear Site Licence area and land which the NDA has	The inclusion of Protective Provisions within the DCO should satisfy NDA and Magnox that the Sizewell C Nuclear Generating Station can be constructed and operated in a manner which adequately ensures the safe, secure and environmentally-sound decommissioning of the Sizewell A Nuclear Site	Continued engagement between the parties to seek to finalise agreed wording of the Protective Provisions.	In Progress

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
	Directions. The plots affected are as follows: <ul style="list-style-type: none"> • MDS/05/06 • MDS/05/07 	<p>responsibility for decommissioning being land plots MDS/05/06 and MDS/05/07.</p> <p>On the basis of the above, the NDA and Magnox are not yet satisfied that the Sizewell C Nuclear Generating Station can be constructed and operated in accordance with the Applicant's application proposals in a manner which adequately ensures the safe, secure and environmentally-sound decommissioning of the Sizewell A Nuclear Site</p>			
3.b		The NDA/Magnox strongly emphasise the need to ensure that a Nuclear Site Licensees' Co-operation Agreement(s) is entered into between the NDA, Magnox, the Applicant and EDF NGL in order to ensure that there is in place a contractual	The Applicant and NDA/Magnox are continuing discussions to agree a suitable co-operation agreement alongside the Protective Provisions to address these concerns.	Continued engagement between the parties to seek to finalise the wording of agreed	In Progress

NNB Generation Company (SZC) Limited. Registered in England and Wales. Registered No. 6937084. Registered office: 90 Whitfield Street, London W1T 4EZ

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
		framework which seeks to avoid conflict between the Sizewell A Nuclear Site, the Sizewell B Nuclear Site and the proposed Sizewell C Nuclear Generating Station, and to ensure that the relevant legal obligations of all parties are not compromised.		Protective Provisions.	
3.c		The proposed compulsory acquisition of any NDA / Magnox land interests or rights must not override the provisions of this Co-operation Agreement, and indeed any future acquisition (including voluntarily) of land or interests by the Applicant must be conditional upon compliance with it, and such principles should be reflected in the Protective Provisions.	The Applicant and NDA/Magnox are continuing discussions to agree a suitable co-operation agreement alongside the Protective Provisions to address these concerns.	Continued engagement between the parties to seek to finalise agreed wording of the Protective Provisions.	In Progress

NOT PROTECTIVELY MARKED