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**Response to Department for Business, Energy and Industrial
Strategy Information presented in Responses to Secretary
of Statement Questions of 18th and 31st March 2022
from the Royal Society for the Protection of Birds and
Suffolk Wildlife Trust**

**Submitted on
23 May 2022**

Planning Act 2008 (as amended)

In the matter of:

**Application by NNB Generation Company (SZC) Limited for an Order
Granting Development Consent for
The Sizewell C Project**

**Planning Inspectorate Ref: EN010012
The RSPB PINs Registration Identification Ref: 20026628
Suffolk Wildlife Trust Registration Identification Ref: 20026359**

Thank you for this opportunity to provide you with our comments and remaining concerns in light of the further new information provided by the Applicant taking account of the views of others e.g. Natural England.

We have limited our response below to new points, following on from our previous submissions. We wish to add that where we have not commented further on concerns set out in our final Examination Submission, this is due to those concerns not being resolved in light of the Applicant's responses and/or new information.

Desalination

In paragraph 2.3 of our [Final Submissions](#) (REP10-204), we noted our concern that proposals for a desalination plant could add to potential marine impacts (in relation to fish prey) on birds of the Minsmere-Walberswick, Alde-Ore Estuary and Outer Thames Estuary SPAs, should its use extend into the commissioning period (or into operation of the power station).

The Applicant appears to be under the misapprehension that further assessment of potential impacts of the extended use of a desalination plant nor even if that plant had to become the permanent water supply source, since the water company would do this if it identified desalination as the preferred solution.

It is the RSPB's opinion that this not in compliance with either EIA or Habitats Regulations assessment requirements as well established practise and caselaw. It is wholly inappropriate to *salami slice* an application either by proposing a phased approach to reduce the size to below that which would require an EIA or (equally worrying in our view) to carve off different aspects and not assess the whole.

Whilst we appreciate there have been challenges with securing a water supply, we are not aware of any reasoning being provided as to why these challenges were not identified earlier in the application process and therefore do question such late consideration, including an application to change due to the need to include a desalination plant. Such late consideration has meant a long term or permanent plant is not included within the EIA or Habitats Regulations Assessment fully and only by way of further information post Examination. In our view adequate assessments especially possible cumulative impacts for having a desalination plant for longer or the lifetime of the applications, is not provided.

NPS EN-1¹ is clear that that the DCO decision maker should work on the assumption that other regimes and regulatory processes will be properly applied and enforced so that decisions on DCO applications should complement but not seek to duplicate other processes (NPS EN-1 paragraph 4.10.3). That same principle is clear from paragraph 188 of the NPPF, i.e. planning decisions should assume that other regimes will operate effectively.

The Applicant's view is the Secretary of State can be satisfied that the potential environmental impacts (including cumulative impacts) will be sufficiently assessed due to Northumberland Water Resource Management Plan 24 process (including the ongoing Water Industry Natural Environment Program investigations on sustainable abstraction) is the appropriate means of undertaking that assessment. However, we strongly disagree especially as more assessment cannot be undertaken at the Application stage mainly since the preferred option for long-term supply is not yet known but also as that stage is fast running out of road.

¹ [Overarching National Policy Statement for Energy \(EN-1\)](#) DECC (2011)

It is for precisely this reason that both the EIA and Habitats Regulations Assessment require the consideration of alternatives, a precautionary approach and for compliance with the Rochdale Envelope principles so that ALL possible impacts can be identified within those assessments and to limit situations such as this occurring.

We support Natural England's comment in paragraph 1.3 of their [Response to SoS request for information of 18 March 2022](#) that:

"...any further change to the project to extend the operational lifespan of the desalination plant or to translocate the desalination plant to another location during the operating phase of Sizewell C lifespan would likely require a significant amount of additional assessment of impacts to statutorily protected sites, landscapes and species, including of additional cumulative and in combination impacts."

We also support TASC's request (in Comment E of their [Response to SoS request for information of 18 March 2022](#)) that any supporting documents relating to the Applicant's earlier consideration of desalination² are made available, in order to aid compliance with the Secretary of State's request for information on this matter.

Marsh Harriers – Creation of Compensatory Wetland Habitat

We welcome the Applicant's intention to ensure that compensatory wetland habitat for marsh harriers is created in advance of the construction period, as outlined in response to question 7.1 in the Applicant's [Response to SoS request for information of 18 March 2022 - Main Report](#). This addresses a key outstanding concern with the delivery of the marsh harrier compensation habitats, which we raised on several occasions during the Examination³. We have been pleased to engage with the Applicant in discussions to ensure the works avoid impacts on the neighbouring designated sites and are supportive of the proposed timings for construction based on the designs in the [On-site Marsh Harrier Compensatory Habitat Strategy](#) (REP10-128).

We would appreciate the opportunity to continue to input to the discussions around the detail of the proposals, as referred to in paragraph 6.1.9 of the Applicant's [Response to SoS request for information of 18 March 2022 - Main Report](#) and with regard to the development of the Marsh Harrier Implementation Plan referred to in the updated [Code of Construction Practice](#) submitted in response to the request for information of 31st March.

Noise and Visual Disturbance of Breeding and Non-breeding Gadwall and Shoveler

The Minsmere South Levels and Sizewell Marshes SSSI are functionally-linked land (FLL) with respect to breeding and non-breeding gadwall and shoveler of the Minsmere-Walberswick SPA. The Applicant concluded that no adverse effects on the integrity of the Minsmere-Walberswick SPA or Ramsar site would arise from this impact source, as outlined in their [Response to SoS request for information of 18th March 2022 - Main Report](#). We responded to these points in our [Transcript of Oral Contribution to Issue Specific Hearing 7 \(ISH7\) Parts 1 and 2 on Biodiversity and Ecology](#) (REP5-164) and in further detail in [RSPB & SWT Comments on Written Representations](#) (REP5-166).

² Underpinning the discounting of desalination in Table 1.2 of Appendix 2.2D Water Supply Strategy [AS-202](#)

³ This concern was summarised in paragraphs 1.1.7 and 15.4 of our Final Submission [REP10-204](#)

We remain of the view set out in our [Final Submissions](#) (REP10-204), that adverse effects on integrity of the Minsmere-Walberswick SPA and Ramsar site cannot be ruled out and that further mitigation should be proposed to address this impact. We are concerned that the only monitoring and mitigation of these effects proposed so far is not likely to be effective.

As we explained in our Final Submissions, whilst Table 2.1 in the TEMMP confirms that monitoring of waterbirds will be undertaken and inform the need for *“Further boundary screening and or other approaches to noise reduction and visual disturbance to lessen any apparent impacts and to maintain populations”*, it is our view that the initial and additional measures proposed will not mitigate potential effects as no evidence has been provided as to where these measures could be deployed or to what extent they would reduce noise and visual disturbance, particularly as some of that disturbance is likely to originate from plant operating at height.

Indirect Noise Impacts on Tern Prey Species

We welcome the request from the Secretary of State that all construction work on the Beach Landing Facility (BLF) and temporary Marine Bulk Import Facility (MBIF) is restricted from May to August inclusive. The Applicant explains in 6.14.1 of its [Response to SoS request for information of 31 March 2022](#) that this is not necessary as pile driving (which is already restricted) is the only source of underwater noise. However, we request clarity regarding dredging activities in relation to the construction of the BLF and MBIF which have the potential to create underwater noise. We do not consider it is clear from the Applicant’s response whether dredging (which may be associated with piling) is also restricted during those months. For clarity, we therefore request that all underwater construction activity is restricted from May to August inclusive.

Thank you again for the opportunity to comment further. Please do not hesitate to contact us should anything above be unclear or should you require any further information from us.