



# The Sizewell C Project

## 9.10.35 Initial Statement of Common Ground - Department of Transport

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## 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 has been prepared through a programme of engagement between NNB Generation Company (SZC) Limited ('SZC Co.') as the Applicant and the Department of Transport ('DfT' referred to as '*the parties*'). Subsequent versions of this SoCG may be required where information is superseded, or new information becomes available.

1.1.2 In question DCO.1.43 of the first round of written questions [\[ExQ1 Part 4\]](#), the Examining Authority requested that the Applicant and the DfT prepare a SoCG on the representations made by the Marine Management Organisation ('MMO') MMO in relation to DfT in their Relevant Representation [\[RR-0744\]](#).

1.1.3 DfT has recently notified the Applicant that they are deferring to the Maritime Coastguard Agency (MCA) regarding advice on the harbour provisions within the Application.

1.1.4 The Applicant has a good working relationship with the MCA and has a history of positive consultation and engagement. The Applicant will now turn its attention to preparing a SoCG with the MCA on the matters raised by the ExA in DCO.1.43 in their first round of written questions to be submitted at Deadline 3.

### 1.2 Purpose of this document

1.2.1 The Application includes powers to designate and manage a harbour. The purpose of this SoCG is to set out the position of Applicant on the points identified by the MMO in their Relevant Representations regarding the role of DfT in the planning process including that the process of issuing a Harbour Order requires a final legal check by the lawyers of the DfT before the Harbour Order is laid before parliament.

1.2.2 This SoCG does not seek to replicate information which is available elsewhere within the DCO application documents. All documents are available on the Planning Inspectorate website.

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## 1.3 Structure of this Statement of Common Ground

1.3.1 **Chapter 2** provides a schedule which details the position on relevant matters between the parties, including any matters where discussions are ongoing. This is underpinned by Appendix A, which provides a summary of engagement undertaken to establish this SoCG.

## 2 POSITION OF THE APPLICANT

2.1.1 **Table 2.1** provides an overview of the position of the Applicant.

Table 2.1: Position of Parties

Ref.	Matter	Reference to the MMO's Relevant Representation	Applicant's Position	Further Action Required
1	Decisions on Harbour Orders	<i>"The MMO would like to highlight to PINS that the creation of Harbour Orders is a complex process and the timescales for approval can often take a number of years, depending on the complexity of the proposals. The process involves lengthy discussions between the applicant, the MMO Harbour Orders Team and the MMO Legal Team. The process also includes a final legal check by lawyers at the Department for Transport (DfT) before the Harbour Order is laid before Parliament."</i> (Ref para 2.2.1)	The Secretary of State has the function of deciding an application for development consent which can include other consents.  Division of responsibility between government departments are dealt with by discussions between the departments.	Applicant to engage with the MCA on behalf of DfT.
2	Engagement with DfT	<i>"As previously advised to the Applicant, DfT will need to be consulted on this application. This is because DfT are</i>	DfT has been adequately consulted in the pre-application	Applicant to engage with the MCA on behalf of DfT.

Ref.	Matter	Reference to the MMO's Relevant Representation	Applicant's Position	Further Action Required
		<i>responsible for Port Policy and other areas which harbour legislation relates to, for example they are the Secretary of State which confirms harbour byelaws.” (Ref: Paragraph 2.2.7)</i>	consultation and through informal engagement. The Secretary of State has the function of deciding an application for development consent which can include other consents. Division of responsibility between government departments are dealt with by discussions between the departments.	
3	Creation of a Competent Harbour Authority (CHA)	<i>“In relation to Article 50 ‘Application of Pilotage Act 1987’ to become a Competent Harbour Authority (CHA), the MMO notes that a CHA is in relation to Pilotage and is not the same as a Statutory Harbour Authority (SHA). The MMO does not process the creation of CHAs; the method to become one is</i>	The Secretary of State has the function of deciding an application for development consent which can include other consents. Division of responsibility between government departments are dealt with by	Applicant to engage with the MCA on behalf of DfT.

Ref.	Matter	Reference to the MMO's Relevant Representation	Applicant's Position	Further Action Required
		<i>under separate legislation from the Harbours Act 1964. DfT would be the body responsible for creating CHAs. Therefore, the MMO advise that PINS should discuss this with DfT.</i> (Ref: Paragraph 2.2.12)	discussions between the departments.	
4	Confirmation of Byelaws	<i>"In relation to Article 64 (1) 'Confirmation of byelaws', the MMO notes that the harbour byelaws will be confirmed by the Secretary of State for Business, Energy and Industrial Strategy, however harbour byelaws are usually confirmed by the Secretary of State for DfT. Therefore, the MMO advises that DfT should be consulted prior to the confirmation of these byelaws and PINS should undertake a legal review to ensure that this is the correct</i>	The definition of 'Secretary of State' has been removed from the draft DCO. Therefore the Interpretation Act 1978 applies. Under the Interpretation Act 1978, which reflects the doctrine of collective responsibility, 'Secretary of State' means 'one of Her Majesty's Principal Secretaries of State'. Confirming the byelaws will therefore be dealt with by whichever Government Department has that function.	Applicant to engage with the MCA on behalf of DfT.

Ref.	Matter	Reference to the MMO's Relevant Representation	Applicant's Position	Further Action Required
		<i>method.</i> " (Ref: Paragraph 2.2.17)		



## APPENDIX A: ENGAGEMENT ON THE SOCG

- A.1.1. The preparation of this SoCG has been informed by a programme of discussions between the parties, as are summarised in **Table 2.2**.

**Table 2.2: SOCG correspondence between the parties**

Date	Details of the Meeting
28-04-21	Initial telecon to discuss ExA request for a SOCG to be prepared.
06-05-21	Initial draft SOCG provided to DfT for comment
12-05-21	Email from DfT confirming its position to defer to MCA on matters relating to proposed harbour order.