



The Sizewell C Project

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

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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 final version, version 04, dated 30th September 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 This SoCG is complete and all matters relating to planning are agreed between the parties as at today's date.

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.

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 or Category 3 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>Following discussions between the parties, the NDA/Magnox are now in a position to remove their in principle objection to the compulsory acquisition (compulsory acquisition of land and compulsory acquisition of any rights etc.) of any of their land that falls (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) pursuant to the Sizewell A Directions made by the Secretary of State on 3 December 2004.</p>	<p>Protective Provisions, now in agreed form and updated in the draft DCO (Rev 10) at Deadline 8 precludes the undertaker from occupying temporarily or acquiring compulsorily any freehold or leasehold interest or acquiring any interest or extinguishing any right held by Magnox or NDA within the Nuclear Site Licence area held by Magnox for the Sizewell A Nuclear Site and the designated boundary of the Sizewell A Nuclear Site for which NDA has statutory responsibility for decommissioning and cleaning up (operational land) unless with the agreement of NDA/Magnox and only where the Designating Directions have first have been modified or revoked to the satisfaction</p>	No	Agreed

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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/04/09 MDS/04/10 MDS/05/02 MDS/05/03 MDS/05/04 MDS/05/06 MDS/05/07 MDS/05/08 MDS/05/09 MDS/05/13 MDS/06/01 <p>Category 2 – NDA/Magnox has an interest in the following plots:</p> <ul style="list-style-type: none"> MDS/04/09 MDS/04/10 MDS/05/02 MDS/05/03 	<p>This is because the NDA/Magnox are content that the restrictions that the Applicant has agreed to at Deadline 8 provide the NDA/Magnox with sufficient protection. These restrictions are: (1) Article 26 being made subject to Schedule 18 (Protective Provisions); (2) the inclusion of agreed Protective Provisions for the benefit of NDA/Magnox in Schedule 18 which prevent the use of compulsory acquisition powers except by agreement; (3) the Book of Reference has been amended to make clear that the NDA/Magnox interests are excluded.</p>	<p>of Magnox and NDA and only once the NSL has been surrendered or revoked by the ONR. Magnox and NDA are therefore able to continue to carry out their regulatory responsibilities and statutory functions in accordance with the Energy Act 2004.</p> <p>Additional clarification has been provided in Article 26 in the draft DCO (Rev 10) at the request of NDA/Magnox.</p> <p>Additional clarification has been added to the Book of Reference in relation to those plots which NDA/Magnox have an interest.</p>		
1.b	<ul style="list-style-type: none"> MDS/05/03 	<p>It is noted that parts (but not all) of MDS/05/06 have now</p>	<p>Parts of plot MDS/05/06 have now been removed from the</p>	No	Agreed

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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/05/04 MDS/05/06 MDS/05/07 MDS/05/08 MDS/05/09 MDS/05/13 MDS/06/01 	been removed from the Order Limits as part of the changes made by the Applicant to the Application on 22 January 2021.	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 Act relocated facilities planning permissions (Ref. Nos DC/19/1637/FUL and DC/20/4646/FUL).		
1.c	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.	In relation to the compulsorily acquisition of Class 4 powers, the NDA/Magnox are content with the restrictions that the Applicant has agreed to at Deadline 8 which provide the NDA/Magnox with sufficient protection. These restrictions are: (1) Article 26 being made subject to Schedule 18 (Protective Provisions); (2) the inclusion of agreed Protective Provisions for the benefit of	Protective Provisions included in the draft DCO (Rev 9 as amended in Rev 10) providing provides the protections required in relation to Class 4 powers, as well as the additional clarification that has been added to the Book of Reference in relation to those plots where NDA/Magnox have an interest.	No	Agreed

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		NDA/Magnox in Schedule 18 which prevent the use of compulsory acquisition powers except by agreement; (3) the Book of Reference has been amended to make clear that the NDA/Magnox interests are excluded.			
1.d		NDA/Magnox welcome the wording of Article 26(2) that was agreed to be inserted by the Applicant at Deadline 8 (DCO, Rev 10), where Article 26 is now subject to the Protective Provisions alongside the Protective Provisions that are now agreed.	<p>Protective Provisions included in the draft DCO (Rev 8 as amended in Rev 9) provide protections for NDA/Magnox which were previously intended to be provided by Article 26(2)(a) and as such Article 26(2)(a) is no longer required and has been removed in the draft DCO (Rev 8).</p> <p>Additional clarification has been provided in Article 26(2) of the draft DCO (Rev 9) at the request of NDA/Magnox.</p>	No	Agreed

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Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
1.e		With the NDA/Magnox no longer having an interest in Plot MDS/02/08 and having reviewed the wording of Article 26(2) at Deadline 8 (DCO, Rev 10) in conjunction with the Protective Provisions, NDA/Magnox are content with the deletion of Article 26(2)(a).	<p>The agreed Protective Provisions included in the draft DCO (Rev 9 as amended in Rev 10) provide protections for NDA/Magnox which were previously intended to be provided by Article 26(2)(a) and as such Article 26(2)(a) is no longer required and has been removed.</p> <p>Additional clarification has been provided in the draft DCO (Rev 10) at the request of NDA/Magnox, where acquisition of land under Article 26 is now subject to the Protective Provisions.</p>	No	Agreed
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 and Magnox has been removed as a Category 1 interest in this plot.	No	Agreed
1.i		The NDA and Magnox also note that Article 30 should	Updated drafting has been included in the draft DCO at	No	Agreed

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Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
		be made subject to Article 26.	deadline 2 which should address this matter.		
Protective Provisions					
2.	Protective Provisions are included for NDA/Magnox in the latest draft of the DCO (Rev 9 as amended in Rev 10).	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 NDA and Magnox are of the view that Protective	The agreed Protective Provisions are included in the draft DCO (Rev 10) at the request of NDA/Magnox.	No	Agreed

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Ref.	Matter	NDA and Magnox position	SZC Co.'s Position	Further Action Required	Agreed/ Not Agreed/ In Progress
		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>	<p>NDA/Magnox are content with Article 26(2) being subject to the agreed Protective Provisions.</p> <p>The NDA/Magnox are also content with the amendments made in the Book of Reference, at NDA/Magnox's request, to insert, for each plot where NDA/Magnox have an interest, that the undertaker cannot exercise any compulsory acquisition power over a NDA or Magnox interest within the</p>	<p>Protective Provisions included in the draft DCO (Rev 9 as amended in Rev 10) ensure that the granting of powers of compulsory acquisition will not impact on the decommissioning of the Sizewell A Nuclear Site and therefore 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.</p>	No	Agreed

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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 	Order limits other than by agreement.	<p>Additional clarification has been provided in the draft DCO (Rev 10) at the request of NDA/Magnox.</p> <p>Additional clarification has been added to the Book of Reference in relation to those plots where NDA/Magnox have an interest.</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 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,	The Applicant and NDA/Magnox are continuing discussions to agree a suitable co-operation agreement to address these concerns. The co-operation agreement is to be agreed and signed as soon as possible, but will not take legal effect until the occurrence of a trigger point at a later date (which is likely beyond the end of Examination).	Continued engagement between the parties to seek to finalise the co-operation agreement.	Agreed

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		and to ensure that the relevant legal obligations of all parties are not compromised.			
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 to address these concerns. The co-operation agreement is to be agreed and signed as soon as possible, but will not take legal effect until the occurrence of a trigger point at a later date (which is likely beyond the end of Examination).	Continued engagement between the parties to seek to finalise the co-operation agreement.	Agreed

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3 SIGNATURES

3.1.1 The above Statement of Common Ground is agreed between SZC Co. and the Nuclear Decommissioning Authority (NDA) and Magnox Limited (Magnox).

Signed:	[Redacted]	[Redacted]
Print Name	[Redacted]	
Job Title:	PROPERTY MANAGER	Roger
Date:	28/09/21	Wrayford
		Magnox Ltd
		Commercial
		Manager
		28.9.21
Duly authorised for and on behalf of the Nuclear Decommissioning Authority (NDA) and Magnox Limited (Magnox)		

Signed:	[Redacted]
Print Name:	Carly Vince
Job Title:	Chief Planning Officer
Date:	28.09.2021
Duly authorised for and on behalf of SZC Co.	

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