

Response by L2 BUSINESS CONSULTING LIMITED

Dear Sirs,

Consultation on Revised FDP Guidance 2010

Thanks you for the opportunity to review and provide feedback on The Energy Act 2008 – Consultation on revised Funded Decommissioning Programme Guidance for New Nuclear Power Stations.

L2 Business Consulting (L2) is an independent consultancy providing strategic advice on clean-up, regulatory and business development within nuclear and other highly regulated industries. We provide consultancy services across the nuclear fuel cycle including advice on waste management and decommissioning for both clean-up and new nuclear build sectors. We also undertake regulatory support covering licensing, permitting, compliance, radiation protection, health & safety, environmental, quality assurance and training. It is against this expertise in which we provided our comments to your consultation.

We have completed the request proforma template as requested, which is attached. In general we are supportive of the draft FDP guidance but believe there are a number of issues which would benefit from some additional consideration and some areas of the document which could be improved in respect of clarity of understanding for the user.

We look forward to reviewing the outcome of the consultation process in due course.

Yours faithfully,

For **L2 BUSINESS CONSULTING LIMITED**

Consultation questions

1

Do you agree or disagree that the draft guidance sets out what an approvable Funded Decommissioning Programme should contain to ensure that operators of new nuclear power stations (i) estimate the potential costs of decommissioning, waste management and waste disposal and (ii) make prudent provision for meeting their liabilities? What are your reasons?

Response

In general we are supportive of the approach of the draft guidance but feel that there are some areas where the guidance and the document itself could be improved, we have summarised these below broken down against the key areas of the document:

Part 1/Part 2(a)

(1) We believe that a better description of the key stakeholders, their roles and responsibilities would be beneficial in aiding understanding and

interactions, ideally this would include a suitable graphic.

(2) The approvals process needs better explanation and definition including where the regulators fit into the process and timing of their regulatory engagement with new nuclear sites licensees vs the requirements of the draft FDP guidance.

(3) The draft FDP guidance needs to better recognise the regulatory requirements in the FDP production, verification and approval process.

(4) The draft FDP guidance makes little mention of informing the public of what this key documents means in non technical terms and generally does not address the need for transparency. It would be good practice to require the production of a non-technical summary document which could be used for non-technical stakeholders. To aid this process a requirement to demonstrate benchmarking would be beneficial. There does not appear to be a requirement to applicants to make the FDP, subsequent Annual Reports or Quinquennial Reports readily available to the public.

(5) The concept of Third Party Verification requires additional consideration on application in practical terms including scenarios where differing parties such as Nuclear Site Licensees, NPL, DECC, Regulators, NGO's may independently seek separate third party verification with significantly varying output.

(6) The level of transparency expected by DECC should be specified to ensure a uniform approach to implementation between applicants.

(7) The draft FDP guidance would benefit from an expanded section on 'Independence of the Fund' including defining what constitutes a conflict of interest and gaining access to the future operators knowledge.

(8) The materiality threshold of 5% seems unrealistically low, we believe a figure of 10% is more workable in practice and allows for realistic fluctuations in changing technology developments and regulatory

3
requirements.

Part 2(b)

(1) We believe that either in the draft FDP guidance or a supplementary guide more information should be provided on the expectations of the DWMP content, recognising the need to gain a uniform approach from applicants to allow for intercomparison and being over prescriptive.

(2) Greater clarity is needed in the document on the description of designated and technical matters.

(3) A flowchart overlaying the DWMP verification/approval process with the existing regulatory approval process would greatly aid understanding.

(4) The base case should be set at 60 years as all prospective applicants are considering reactor technology based on 60 year lifecycles.

(5) Independence of the 3rd Party Auditor - who appoints them, could all interest parties make use of the same auditor review, which would provide a common understanding and data set.

(6) The document would benefit from more information on available and future waste management routes/options.

Part 2 (C)

(1) Some consideration should be given on how to encourage sharing of best practice between funds. Is there an option for separate operators to pool funds.

(2) More guidance should be provided on the course of action in the scenario of prompt decommissioning and potential recourse options available to the Fund to ensure sufficiency of financial funds available.

(3) Greater guidance on the acceptability and requirements for the use of Parent Company Guarantees (PCG)

(4) Improved understanding on the verification process is needed, in terms of how will it be applied, use of actuarial vs technical verification and market capacity for verification (thinking from an independence perspective).

(5) The same comment as the section above regarding provision of a nontechnical FAP summary to aid non-technical stakeholder engagement and understanding.

2

Does the draft guidance contain sufficient information to enable operators of new nuclear power stations to understand the matters that their funded decommissioning programmes should contain?

Response We believe that the draft guidance, notwithstanding the comments above, provides sufficient guidance across which areas the FDP's should contain.