

# NLFAB

Lady Balfour of Burleigh  
Chairman, Nuclear Liabilities Financing Assurance Board

The Secretary of State  
Department of Energy and Climate Change  
3 Whitehall Place  
London SW1A 5HD

14 x 15

*Dear Secretary of State*

The Energy Act 2008 requires the submission of a Funded Decommissioning Programme (**FDP**) by a person applying for a nuclear site licence.

NNB Generation Company Limited (**NNB**) originally submitted an FDP in respect of the new nuclear power station known as Hinkley Point C in 2012 which, following discussions with your Department, has now been re-submitted.

One element of the FDP is the Funding Arrangements Plan (**FAP**). The role of the Nuclear Liabilities Financing Assurance Board, which I chair, is to provide independent advice to you as to the suitability of this aspect of the FDP submission and, in particular, the extent to which this part of the FDP meets the requirements of the Objective and Guiding Factors set out in the Department of Energy & Climate Change's Funded Decommissioning Programme Guidance for New Nuclear Power Stations dated December 2011 (the **Guidance**). We received the final form draft of the FAP on 3 August 2015.

I am pleased to send you, in the attached document, the advice of the Nuclear Liabilities Financing Assurance Board in relation to the suitability of the FAP presented by NNB in respect of Hinkley Point C. In summary, the Board's advice to you is that the FAP makes prudent provision for the financing of the designated technical matters and meets the Objective and Guiding Factors set out in the Guidance.

The Board wishes to draw your attention to the various judgments made and issues raised in coming to the position set out in the following advice, including the Board's assumptions made at Annex 6, *Assumptions*. The Board also notes that its advice is subject to the following observations:

- (A) that this advice applies solely to the FAP submitted by NNB in respect of its application to build Hinkley Point C;
- (B) that you retain absolute and sole discretion in determining whether to approve or reject any FDP and whether to approve such FDP with or without modifications, and whether unconditionally or subject to conditions;

- (C) given that the FAP is dependent, in a number of respects, on the terms of the HPC Contract for Difference (the **CfD**) and the financing arrangements for HPC, we recommend that you consider whether to defer your final approval of the FAP until you are satisfied that the final terms of the CfD and the anticipated terms of the financing arrangements do not affect the validity of your conclusions on the FDP. The Board asks you to note its assumptions regarding the CfD and financing arrangements set out in Annex 6, *Assumptions*. The Board asks that you note, in particular, the assumptions it has made with regard to the possibility of potential alternative arrangements which you may have to consider in the event of a successful State aid challenge to the CfD;
- (D) the Board's role is to advise on the suitability of the FAP, and the DWMP is not within the Board's remit. The Board asks you to note its assumptions in this respect as set out in Annex 6, *Assumptions*;
- (E) if you are minded in the future to designate any agreements as 'Project Finance Secured Documents' or to enter into further agreements directly with any lenders to NNB (or other related financing parties) concerning the FAP, you will need to be mindful as to whether or not such arrangements affect the FAP in such manner as to render its provision no longer prudent. It may be appropriate for you (i) to revert to this Board or an equivalent body, at that time, for advice as to the FAP's continued prudent provision; and/or (ii) to treat entry into that agreement as a modification to the FAP;
- (F) the Board gives the advice set out in this letter on the basis of its understanding of the factual and legal context of the matters referred to in this document as at the date of this advice. If that factual or legal context should prove to be inaccurate or subsequently change this may have a material effect on the Board's advice or the FAP. We assume that in such circumstances you will seek further advice, if appropriate, as to the continuing suitability of the FAP; and
- (G) we expect that you will review the operation of the FDP regime from time to time and that any such review may include looking at the 2013 Regulations again in the light of practical experience accumulated.

Having received this advice, you will now wish to determine whether to approve NNB's FDP and, if so, with or without modifications, and unconditionally or subject to any conditions.

*Yours sincerely*

*Lady Balfour of Burleigh*

Lady Balfour of Burleigh  
Chairman