



Department for
Business, Energy
& Industrial Strategy

Consultation on draft reasons for designation of NNB Generation Company (SZC) Limited

Government response



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General Information

Purpose of this document

This document sets out the UK Government's response to the consultation on the Designation of NNB Generation Company (SZC) Limited: Draft Reasons.

It is published alongside the final reasons for the Secretary of State designating the project.

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Background

On 31st March 2022, the Nuclear Energy (Financing) Act (“the Act”) received Royal Assent. The Act established the legislative framework for the Regulated Asset Base (RAB) model to support the design, construction, commissioning, decommissioning, and operation of new nuclear energy projects, creating an additional method for funding future nuclear projects.

The first step in allowing a nuclear company to benefit from the RAB mode is for the Secretary of State to designate the relevant nuclear company under section 2(1) of the Act. A nuclear company is defined in the legislation as a company that holds an electricity generation licence in respect of a nuclear energy generation project.

The Secretary of State may only designate a nuclear company if the two criteria laid out in section 2(3) of the Act are met. Those designation criteria are that:

- a. the Secretary of State is of the opinion the development of the nuclear project is sufficiently advanced to justify the designation of the nuclear company in relation to the project.
- b. the Secretary of State is of the opinion that designating the nuclear company in relation to the project is likely to result in Value for Money.

The Secretary of the State may also attach conditions to the designation, with an appropriate response if the conditions are not met.

On 11th April 2022, the Secretary of State published “Nuclear RAB model: Statement on procedure and criteria for designation” (“Designation Statement”). This sets out the procedure that the Secretary of State expects to follow in determining whether to exercise the power under section 2(1). It also sets out how the Secretary of State expects to determine whether the designation criteria have been met in relation to a specific company, including the information and milestones they expect to take into account when making this decision. This document can be found on Gov.uk¹.

The Secretary of State has been in discussions with NNB Generation Company (SZC) Limited (NNBG SZC) in respect of the Sizewell C project since January 2021. NNBG SZC notified the Secretary of State of its intention to apply for designation on the 13th of April 2022 and submitted a full application on 27th April 2022. As part of its application, NNBG SZC provided evidence of how both the nuclear company and the Sizewell C project meet the criteria laid out in the Act. This included referencing material and information provided to the Secretary of State as part of the ongoing negotiations on the Sizewell C project.

The Department for Business, Energy and Industrial Strategy (“BEIS”), on behalf of the Secretary of State, have analysed this evidence and carried out a Value for Money

¹ <https://www.gov.uk/government/publications/nuclear-regulated-asset-base-rab-model-statement-on-procedure-and-criteria-for-designation>

assessment. Having completed this analysis and had regard to all other relevant information, including information on the project as part of the wider negotiations, the Secretary of State considered that the designation criteria in section 2(3) of the Act were met, subject to the consultation, in compliance with section 3(2) of the Act.

The Secretary of State prepared their draft reasons for the designation NNBG SZC for the purposes of consulting the ONR, NNBG SZC, Ofgem and the EA. These draft reasons were published on the 14th June. Following a 4-week consultation period, responses have been received from each party. The Secretary of State believes that the consultation has, alongside BEIS's own assessments and analysis, furnished them with the information necessary to take the decision.

Using this information, the Secretary of State has taken the decision to designate NNBG SZC under section 2(1) of the Act. The reasons for doing so are included in the "Designation of NNB Generation Company (SZC) Limited: The Secretary of State's reasons for designation".

This document responds to the points made by consultees on the Secretary of State's draft reasons for designation.

Consultation and Government Responses

The Secretary of State welcomes the responses from consultees. Where appropriate, the suggested amendments and comments have been reflected in the Secretary of State's Reasons for Designation of NNBG SZC.

Based on the feedback received, and the continued wider scrutiny of the project against the criteria, the Secretary of State remains content that the company and project continue to meet the designation criteria.

NNBG SZC

In their response NNBG SZC:

- suggested the designation reasons should include a more extensive demonstration of the progress made in relation to regulatory processes, including the Development Consent Order (DCO) decision process, the nuclear site licencing requirements, and the environmental permits;
- recommended additions to the Value for Money case to emphasise the non-monetised benefits and upside risks of Sizewell C;
- sought further clarity on the methodology for the Value for Money case analysis – including how assumptions on alternative technologies are made and delivery risk is accounted for; and

- asserted that the RAB structure and its known precedents show that effective incentivisation can be achieved through this model.

Government response

Progress on regulatory processes

The Secretary of State welcomes the response from NNBG SZC, and notes the importance of setting out clearly the stages the project has reached in relation to the relevant regulatory processes.

The designation reasons have been updated, where BEIS feels it is appropriate, to reflect the progress NNBG SZC has made with regard to regulatory processes relevant to new nuclear power projects, including developments which have occurred since the consultation was launched. This includes the granting of the project's DCO² on the 20th July.

Since the beginning of the consultation period, the ONR have published a progress update on the NNBG SZC nuclear site licence³, a regulatory factor in the Secretary of State's decision on whether to designate. According to this update, the ONR's "licence assessment concludes that the application has met almost all the regulatory requirements set out in regulatory guidance". More specifically, the update states that the ONR are "...satisfied that NNB Generation Company (SZC) Ltd has put in place an organisational capability and associated arrangements suitable for licence granting and no issues have been identified regarding the suitability of the site which would prevent a licence being granted".

The ONR has highlighted two outstanding matters which require resolution prior to the formal granting of a licence but, taking the view of the ONR, the Secretary of State is satisfied that NNBG SZC has plans in place to resolve these matters. The Secretary of State therefore retains the position stated in the draft reasons that the Sizewell C project is sufficiently advanced in this area to warrant designation. The update has been factored into the designation reasons. The Secretary of State has made the obtaining of a full Nuclear Site Licence a condition of designation.

In relation to the environmental permits, during the consultation period, the EA began a twelve-week public consultation⁴ on the 4th July 2022 to inform their determination of the following permits:

- a. Disposals and discharges of radioactive waste
- b. Operation of combustion plant (standby generators)
- c. Discharge of turbine condenser cooling and process waters into the North Sea.

The progress made on this since the beginning of the consultation period has been reflected in the final designation reasons.

² DECO decision <https://infrastructure.planninginspectorate.gov.uk/projects/eastern/the-sizewell-c-project/>

³ <https://news.onr.org.uk/2022/07/progress-update-sizewell-c-site-licence/>

⁴ <https://www.gov.uk/government/consultations/sizewell-c-environmental-permits-for-a-new-nuclear-power-station>

Value for Money assessment

The draft reasons for designation included a Value for Money assessment, which was completed to support the designation decision.

The assessment has been completed in line with HMT Green Book principles on how to appraise and evaluate projects⁵. Among other factors, the Value for Money case considers the potential impact of designation on consumers, using all relevant information available at the time, as well as analysing the non-monetised benefits of the project, such as energy security and additional jobs.

In their response, NNBG SZC highlighted additional information which they considered relevant to the non-monetised benefits of the project.

Whilst the Secretary of State considered the general level of detail included in the draft reasons to be sufficient for the purposes of the document, they have provided additional detail where appropriate. For example, further information relating to the potential benefits arising from NNBG SZC's intended supply chain content for the project was added.

The Secretary of State acknowledges the points NNBG SZC made regarding the Dynamic Dispatch Model (DDM). The DDM is used by Government to examine the cost-effectiveness of adding new projects, such as Sizewell C, to the electricity mix. This assessment uses counterfactuals to assess areas such as land footprint, construction, and noise impacts. This model was the basis for the Value for Money assessment.

The sections covering these areas in the reasons for designation have been updated to provide greater clarity where it was deemed appropriate to do so, as a result of the comments made by NNBG SZC. For example, the Secretary of State can confirm that tax is not considered in the Value for Money analysis as it is viewed as an economic transfer. The Government recognises this as an important point that will be considered and weighed against other factors as part of ongoing assessment and approval of the project post-designation. The Government will also explore whether the counterfactuals used in the DDM can be updated to better reflect the potential impact of the alternatives.

ONR

The ONR confirmed that the description of the project's progress through their regulatory processes was accurate. ONR confirmed that their planned licensing assessment has been completed and that they have issued a further progress update on their website⁶.

The ONR made other comments on suggested editorial amendments.

⁵ The Green Book: appraisal and evaluation in central government <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

⁶ ONR Progress update on SZC <https://news.onr.org.uk/2022/07/progress-update-sizewell-c-site-licence/>

Government response

The Secretary of State welcomes ONR's response.

The ONR flagged in their consultation response two outstanding issues that would need to be resolved prior to a nuclear site licence being awarded. These are related to Security of Tenure at the project site and certain issues within the current shareholder agreement. The Secretary of State is pleased that engagement between ONR and the applicant has indicated that plans are in place to address both matters in due course.

The Secretary of State is pleased to hear that, once the two outstanding matters are resolved, the ONR will carry out a proportionate reassessment of the application, focusing on the two outstanding matters and any other relevant licensing issues that could emerge during the intervening period.

As a result of the plan to undertake a reassessment, the Secretary of State has made as a condition of designation that NNBG SZC would not enter into a RAB revenue collection contract unless a Nuclear Site Licence were granted.

Environmental Agency

The EA agreed with the preliminary conclusion drawn in the consultation document, that the Sizewell C project is sufficiently mature with regard to environmental permits to be considered suitable for designation.

The EA stated that it has received applications for the operational environmental permits for Sizewell C in May 2020. These relate to:

- a. Disposals and discharges of radioactive waste
- b. Operation of combustion plant (standby generators)
- c. Discharge of turbine condenser cooling and process waters into the North Sea.

The EA has not yet completed their determination of these permits but have begun a twelve-week public consultation on 4th July 2022.

Government response

The Secretary of State welcomes the EA's response and notes the importance of permits for initial construction. As such, the Secretary of State has made it a condition of designation that NNBG SZC would lapse if the environmental permits for operation and initial construction are not obtained by the end of 2027.

Ofgem

In their response, Ofgem gave overarching comments regarding the importance of HMG's continued transparency regarding the process to designate and modify a company's RAB licence, especially given the cost-of-living crisis.

Ofgem strongly welcomed the Secretary of State's commitment to a continued focus on the project's Value for Money. They agreed that the Secretary of State should revoke the project's designation if it no longer complies with the designation criteria. They flagged that all relevant stakeholders should be engaged to ensure the modelling assumptions remain appropriate as the Value for Money assessment develops.

Ofgem also expects BEIS to robustly consider how risk allocation might affect Value for Money. Ofgem stated they would welcome an approach that balances certainty to investors with regulatory flexibility.

Ofgem encouraged further analysis of the costs and benefits of heat production and flexibility services, and trusts that consumer bill impacts will be fully considered in policy decisions for the regulatory regime.

Government response

The Secretary of State welcomes Ofgem's feedback on the importance of transparency and continued analysis on the project's Value for Money.

The Government commits to continued transparency beyond the point of designation. Prior to making any licence modifications, the Secretary of State must carry out a further consultation on the proposed licence modifications, including with Ofgem, and must then publish the licence modifications as soon as practicable after they are made. At the point of directing the revenue collection counterparty to offer to enter into a revenue collection contract with a designated nuclear company, the Secretary of State will publish a Value for Money assessment of the project and its impact on consumers.

On Value for Money, in the final reasons for designation the Secretary of State has included a summary of the Value for Money assessment. BEIS will continue to assess Value for Money to ensure that the designation criteria continue to be met. When modifying the designated company's licence and as a requirement under the Nuclear Energy (Financing) Act, the Secretary of State will take into account the requirements of existing and future energy consumers, as well as the need to secure stable, low-carbon, affordable energy.

At the point of directing the revenue collection counterparty to offer to enter into a revenue collection contract with a designated nuclear company, the Secretary of State will publish a Value for Money assessment of the project and its impact on consumers.

The need for further analysis on heat production and flexibility services have been noted and will be picked up at a later stage in the project's progression.

Next Steps

The Secretary of State has now chosen to issue a final designation notice to NNBG SZC. This contains reasons for the designation, as amended in light of feedback from consultees and continued scrutiny of the project as part of ongoing commercial negotiations. The designation will remain in place for 5 years, unless the Secretary of State decides to extend the period in line with provisions under the Nuclear Energy (Financing) Act.

Once the designation notice has been issued, the Secretary of State can make modifications to NNBG SZC's generation licence to implement the features of a RAB model. These do not take effect until NNBG SZC enters into a revenue collection contract with the revenue collection counterparty.

The Secretary of State has chosen to append conditions to the final designation notice for NNBG SZC. The Secretary of State is mindful that they have discretionary power under section 5 of the Act to revoke NNBG SZC's designation as a designated nuclear company should:

- a. either of the designation criteria (set out on Page 5) cease to be met,
- b. the company cease to hold an electricity generation licence in respect of the nuclear energy generation project described in the designation notice.

Additionally, the designation may lapse on notice from the Secretary of State if NNBG SZC fail to comply with a condition to which the designation is subject.

In the event that a designation is revoked or lapses, any licence modifications made will be treated as having never been made.

Responses to the consultation have been published in full, save where information has been redacted at the request of the respondent.

Annexes

Annex 1. SZC Response

Annex 2. ONR Response

Annex 3. EA Response

Annex 4. Ofgem Response

This publication is available from: www.gov.uk/government/publications/designation-of-nnb-generation-company-szc-limited-draft-reasons

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