

## **Nuclear Industry Association Response to the Department for Levelling Up, Housing and Communities' Operational Reforms to the Nationally Significant Infrastructure Project (NSIP) Consenting Process consultation.**

The Nuclear Industry Association (NIA) welcomes the chance to respond to the Department for Levelling Up, Housing and Communities' Operational Reforms to the Nationally Significant Infrastructure Project (NSIP) Consenting Process consultation.

The NIA is the trade association and representative body for the civil nuclear industry in the UK. We represent around 270 companies operating across all aspects of the nuclear fuel cycle.

Due to the diversity of our membership, our views in this submission will cover high-level, industry-wide matters. Our members may choose to make their own detailed submissions.

### **Executive Summary**

The NIA welcomes the positive intent outlined in Operational Reforms to the Nationally Significant Infrastructure Project (NSIP) Consenting Process consultation and supports the ambition to make the planning system for NSIPs work more effectively for applicants, local authorities, and communities.

Ensuring consultation on NSIPs is proportionate and ensuring that the planning system is adequately resourced is essential to accelerate the delivery of low carbon nuclear projects, which is essential for our net zero future. Nuclear is our only source of clean, sovereign baseload power and currently supplies around 15% of electricity demand from just over half a square mile of land. According to United Nations' analysis, nuclear has the lowest lifecycle carbon, lowest land use, and lowest impact on ecosystems of any electricity source.

The functioning in practice of the planning regime for NSIPs has been particularly challenging for the nuclear sector to date. In particular, the system has caused a significant amount of uncertainty for developers and not been proportional in assessing proposed projects and considering the urgency of deploying new low carbon energy sources to combat the climate crisis.

To give two examples:

- Hinkley Point C (HPC), the first nuclear power plant to start construction since the 1980s, took 17 months to receive a Development Consent Order (October 2011-March 2013), whereas Sizewell C, a replica of HPC technology, took 26 months (May 2020-July 2022). EDF had to submit 1,001 documents as part of its Development Consent Order (DCO) application for Hinkley Point C in comparison to 4,378 documents for Sizewell C. The environmental statement for the former was 31,401 pages and for the latter 44,260 pages.
- The Planning Inspectorate (PINS) recommended the rejection of the Wylfa Newydd DCO application despite acknowledging that the project that would have provided clean power for 65 years to 5.5 million homes because of concerns over the possible impacts on a local tern colony and local fungi. This is a key example of highly disproportionate assessment and outcomes within the planning system.

We strongly support efforts outlined in this consultation to improve operational elements of the planning system, as the speed of planning consent must rise 50% from 0.4 GW/year from 2008 to 2023 to 0.6 GW/year in 2023-2050 to hit the Government's target of 24 GW of nuclear capacity by 2050.

In particular, we welcome the proposals in relation to the resourcing of the Planning Inspectorate in order to improve the capacity and capability of the planning system. Adequate resources are crucial to carry through well-intended reforms into practice at a project level.

We recognise that this consultation is focused on bringing forward operational reforms to support faster consenting, we strongly recommend the introduction of a Net Zero Duty on all relevant regulators and the Planning Inspectorate to ensure planning decisions are proportionate to the urgent need for more low carbon energy to mitigate climate change.

#### **Questions:**

##### **Question 1: Do you support the proposal for a new and chargeable pre-application service from the Planning Inspectorate?**

We are supportive of the proposal in principle; however, we would welcome further clarification on what the Planning Inspectorate will provide as parts of the new pre-application service.

##### **Question 2a: Do you agree with the 3 levels of service offered?**

We agree with the three levels of service offered in principle, on the basis that value for money is provided to applicants. Further clarification on what constitutes a “complex” or “controversial” project would also be welcomed. There should be clear, publicly defined criteria for what qualifies as a complex or controversial project, so that different technologies are evaluated on a level playing field rather than subjective perceptions.

##### **Question 2b: If you are an applicant, which of the 3 tiers of service would you be most likely to use and for how many projects?**

No comment.

##### **Question 3: Would having the flexibility to change subscriptions as a project progresses through pre-application be important to you?**

No comment.

##### **Question 4: To what extent do you agree that the overall proposals for merits and procedural advice will enable the policy objective to be met?**

It is difficult to judge at this point whether the policy objective will be met until the proposed arrangements are implemented.

##### **Question 5: Do you have any specific comments on the proposals in the Table above?**

We would support further clarification regarding the approach that the Planning Inspectorate might take in providing focused advice on the development of an application against future satisfaction of Quality Standards, without providing definitive advice about project design/design options.

##### **Question 6: Do you agree with the proposed changes to the consolidated list of statutory consultees outline above?**

Yes, we agree that the list of statutory consultees should be updated.

##### **Question 7: Are there any other amendments to the current consolidated list outlined in table 2.1 that you think should be made?**

We would welcome further clarification on what constitutes a “Neighbourhood Planning or Development Group”.

##### **Question 8: Do you support the proposed introduction of an early ‘adequacy of consultation’ milestone?**

Yes, the NIA supports the introduction of an early ‘adequacy of consultation’ milestone. The introduction of such a milestone could help to further progress consultation discussions. However, we

recommend that it is clarified whether an early 'adequacy of consultation' is just a review of an applicant's consultation plans.

**Question 9: Are there any additional factors that you think the early 'adequacy of consultation' milestone should consider?**

No. The level of consultation currently required for projects requiring DCOs is already high.

**Question 10: What are the main reasons for consulting with communities multiple times during the lifetime of an NSIP application?**

We believe that:

- It is a means to mitigate legal challenge for the project.
- It is the main way to update a community on changes that are made to a project.
- The age of the National Policy Statements means more consultation is needed than before.

**Question 11: Are there any other measures you think that government could take to ensure consultation requirements are proportionate to the scale and likely impact of a project?**

We believe that it is important that engagement comes from developers, as opposed to from Government, in order for developers to build trust with local communities. Developers in the nuclear sector are effective at engaging with local communities and supporting these communities. For example, there were four rounds of public consultation for Sizewell C, with input from more than 10,000 East Suffolk residents. The DCO for Sizewell C involved a 55,000-page application, nineteen change request submissions and 1,290 interest parties. The construction of Hinkley Point C has provided enormous local benefits, which has resulted in £139 million of community investment into local infrastructure and community support.

**Question 12: To what extent do you agree with the proposal to remove the prohibition on an Inspector who has given section 51 advice during the pre-application stage from then being appointed to examine the application, either as part of a panel or a single person?**

We welcome this proposal to remove this prohibition, given it may enable continuity in the assessment process by allowing an Inspector involved in the pre-application stage to sit within a panel to inform and provide context to other examiners not previously involved in the pre-application stage.

**Question 13: To what extent do you agree that it would lead to an improvement in the process if more detail was required to be submitted at the relevant representation stage?**

If more detail was required to be submitted at the relevant representation stage, a balance must be struck so that statutory consultees are not supplying vast quantities of information that do not raise relevant issues and may result in the prolongation of the initial assessment process. However, the Examining Authority must be given enough time to properly examine the information which is being provided.

**Question 14: To what extent do you agree that providing the Examining Authority with the discretion to set shorter notification periods will enable the delivery of examinations that are proportionate to the complexity and nature of the project but maintain the same quality of written evidence during examination?**

We agree, however, time savings gained during this process should be passed on to applicants so that both the Examining Authority and applicants can benefit from the shorter notification periods. Frontloading projects without passing on time savings will result in a longer project consenting timeline, which goes against the objective of the NSIP reforms.

**Question 15: To what extent do you agree that moving to digital handling of examination materials by default will improve the ability for all parties to be more efficient and responsive to examination deadlines?**

We support the moving to digital handling of examination materials by default, however, some flexibility for written materials is required to ensure that the process is as accessible as possible.

**Question 16: To what extent do you agree that the submission of ‘planning data’ will provide a valuable addition as a means of submitting information to the Planning Inspectorate?**

We would welcome further clarification on what is meant by ‘planning data’ and would support a definition of ‘planning data’ being provided in the guidance for reference.

**Question 17: Are there any other areas in the application process which you consider would benefit from becoming ‘digitalised’?**

No comment.

**Question 18: To what extent do you agree that projects wishing to proceed through the fast track route to consent should be required to use the enhanced pre-application service, which is designed to support applicants to meet the fast track quality standard?**

We support this as it should ensure that the same inspector engaged in the pre-application stage is part of examination process.

**Question 19: To what extent do you consider the proposed fast track quality standard will be effective in identifying applications that are capable of being assessed in a shorter timescale?**

We agree that it will be effective, however, we would welcome examples of types of applications that would not be suitable for the fast-track process for further clarification.

**Question 20: On each criteria within the fast track quality standard, please select from the options set out in the table below and give your reasoning and additional comments in the accompanying text boxes. Please also include any additional criteria that you would propose including within the fast track quality standard?**

Quality standard specific criteria	Strongly Agree	Agree	Neither agree/ disagree	Disagree	Strongly Disagree	Reasons
1. Principal areas of disagreement			X			We would welcome clarification of what areas of disagreement that are “limited in number and scope” refers to.
Procedure			X			We would like to see statements recognising the role that the Planning Inspectorate plays, instead of the current sole onus on the applicant in the consultation document.
2a Fast track programme document			X			We would welcome further clarification on the Fast track programme document.
2b(i) include fast track intention in consultation material	X					We agree as this would ensure consultees are aware of the urgent need to engage due to the shorter timeframes involved.

2b(ii) formal agreement to use enhanced pre-application		X				We agree.
2b(iii) publicise fast track programme			X			We would welcome further clarification on the Fast track programme document
2b(iv) provide evidence at submission of 2a – 2c			X			We are unsure on the value add of this proposal.
3. Regard to advice				X		We believe this would be too rigid and requires additional flexibility.

**Question 21: To what extent do you agree that the proposals for setting the fast track examination timetable strike the right balance between certainty and flexibility to handle a change in circumstance?**

We agree, however, we recommend that if the Examining Authority is unable to complete examination within the shorter time period and requests an extension from the Secretary of State to complete their work, the applicant should receive a refund.

**Question 22: To what extent do you agree that there is a need for new guidance on which application route proposed changes should undergo?**

We would support the standardisation of advice and further clarity on what are deemed material and non-material changes. This would provide clearer timeframes which would help developers by reducing long consultations with the Planning Inspectorate surrounding the materiality of a change and the ambiguity which currently surrounds the approval process. The Planning Inspectorate should also be enabled to guide applicants regarding any additional information that they would need to submit in addition to their change request.

**Question 23: In addition, what topics should new guidance cover that would help to inform decisions on whether a proposed change should be considered as material or non-material?**

We would welcome answers to the following in the new guidance to help inform decisions on whether proposed changes should be considered material or non-material:

- Theoretical examples of what is likely be considered as material/non-material change.
- Information regarding the type of evidence that the Planning Inspectorate will require to determine whether a change should be considered material or non-material.
- Confirmation of whether environmental conditions of a site influence the decision.

We would also ask for consistency across the Planning Inspectorate on the determination of what are considered material and non-material changes.

**Question 24: To what extent do you support the proposal to introduce a statutory timeframe for non-material change applications? What do you consider is a reasonable timeframe for determining non-material applications?**

We fully support the proposal to introduce a statutory timeframe for non-material change applications. A statutory timescale, agreed at the point of the applicant's submission, for non-material changes would provide clarity and accelerate the delivery of low carbon, nuclear projects.

The current system has resulted in a considerable amount of uncertainty for applicants, particularly due to the length of time it can take to review these applications. For example, the fourth non-material change application for Hinkley Point C was submitted in July 2020 and was not determined until December 2021. Although amendments were made during the decision period, the process took an exceptionally long time for what were minor changes to buildings which had no public impact. The project experienced a lack of clarity on the timeframe for decision whilst the determination of the non-material change application was in motion as there was no statutory timeline for the determination of these applications.

**Question 25: Taking account of the description of the services in section 2.2.1 to what extent do you believe a cost-recoverable pre-application service will represent value for money in supporting applicants to deliver higher quality applications with minimal residual issues at submission?**

We support the intention provided that it represents value for money for applicants.

**Question 26: To what extent do you agree with the proposal to charge an overall fee (appropriate to the tier of service that will cover the provision of the service) for a fixed period?**

We agree that the overall fees should be proportionate to the level of service which are provided by the Planning Inspectorate. We would welcome clarity in relation to how the fees will be calculated, how they will represent value for money, what constitutes a 'late submission fee' with regards to section 6.2.2 and the proposed fee amounts for this charge.

**Question 27: The government has set out an objective to move to full cost recovery for the Planning Act 2008 consenting process. To what extent do you support the proposal to support the Planning Inspectorate to better resource their statutory work on consenting by reviewing and updating existing fees, and introducing additional fee points?**

We would support the proposal provided that the fees are an accurate reflection of the time and resources that the Planning Inspectorate spends on applications.

**Question 28: To what extent do you support the proposal to review and update existing fees in relation to applications for non-material changes to achieve cost recovery and support consenting departments in handling these applications?**

We support the proposed review and update of existing fees provided that it represents value for money for applicants.

**Question 29: To what extent do you agree that the proposed review and update of existing fees and introduction of additional fee points will support the Planning Inspectorate to better resource their statutory work on consenting?**

We support the proposed review and update of existing fees and the introduction of additional fee points provided that they represent value for money for applicants.

**Question 30: To what extent do you agree that defining key performance measures will help meet the policy objective of ensuring the delivery of credible cost-recoverable services?**

We strongly agree with this proposal. Refunds should be provided to applicants if key performance measures are not met to ensure credibility.

**Question 31: Do you agree with the principles we expect to base performance monitoring arrangement on?**

Principles	Strongly Agree	Agree	Neither agree/ disagree	Disagree	Strongly Disagree	Reasons
Be outcome and not output focussed to ensure better planning outcomes			X			It is unclear on the difference from the switch being outcome focused to output focused.
Consider quality of customer service provision	X					The provision of a high-quality service is essential for applicants.
Cover the provision of statutory and non-statutory advice provided by the specific prescribed bodies	X					Statutory and non-statutory advice is fundamental to project design for applicants and achieving positive outcomes.
Monitoring should be tailored to the context of each organisation	X					We agree that monitoring should be tailored and proportionate.
Reporting should be timely, transparent, simple to understand, easily accessible and evolved over time	X					Timely and transparent reporting would benefit all stakeholders. We suggest that reporting should include regular annual updates.

**Question 32: We would like to monitor the quality of customer service provided, and the outcomes of that advice on applicant's progression through the system where practicable. Do you have any views on the most effective and efficient way to do this?**

We would recommend direct correspondence with applicants and trade associations, such as the NIA, to ensure high quality feedback on the quality of customer service provided.

**Question 33: To what extent do you support the proposal to enable specific statutory consultees to charge for the planning services they provide to applicants across the Development Consent Order application process?**

We are supportive of this proposal to enable statutory consultees to charge for the planning services that they provide to applicants across the DCO application process. We strongly agree that it is essential that these bodies are adequately resourced so that they can engage with applicants. However, we would like to stress that service charges should be proportionate to the work undertaken by the consultees and represent value for money.

**Question 34: To what extent do you agree with the key principles of the proposed charging system?**

Principles	Strongly Agree	Agree	Neither agree/ disagree	Disagree	Strongly Disagree	Reasons
Initially limit the ability to charge to the organisations listed in table 7.1		X				
Recover costs for non-statutory and statutory services		X				
Setting charging schemes		X				

**Question 35: Do you have any comments on the scope and intended effect of the principles of the charging system?**

A new system may be required for some organisations to set up a new charging scheme and this may be expensive to implement. We thus recommend that support is provided to these organisations to set up the new schemes.

**Question 36: Do you support the proposal to set out principles for Planning Performance Agreements in guidance?**

Yes, we support the proposal to set out principles for Planning Performance Agreements in guidance. We agree that fair and proportionate Planning Performance Agreements will help parties to effectively progress through the planning process.

**Question 37: Do you have any further views on what the proposed principles should include?**

No comment.

**Question 38: To what extent do you agree that these proposals will result in more effective engagement between applicants and local communities for all applications?**

We agree that engagement with local communities is important, however, we believe that developers in the nuclear sector are responsible and already maximize their engagement with local communities.

**Question 39: Do you face any challenges in recruiting the following professions? Please complete the table below and give reasons.**

No comment.

**Question 40: Are there any other specific sectors (as identified above) that currently face challenges in recruiting?**

There is a skills shortage across multiple sectors, including the nuclear sector, required to meet net zero goals by 2050. The nuclear workforce must expand quickly and dramatically to realise our energy goals. There are approximately 65,000 people in the civil workforce today, however, the Government's 24 GW target for nuclear will require roughly 250,000 people.



**Question 41: Do you have any ideas for or examples of successful programmes to develop new skills in a specific sector that the government should consider in developing further interventions?**

We would encourage the introduction of outreach programmes in schools, colleges, and universities to highlight the pathway into nuclear professions. Additionally, we would support bursary schemes and sponsorships for school leavers and graduates who pursue a career in the nuclear industry.

**Question 42: To what extent do you agree that updated guidance on the matters outlined in this consultation will support the Nationally Significant Infrastructure Project reforms?**

All guidance related to the DCO process will need to be updated and we would encourage the Planning Inspectorate to streamline and reduce the various different guidance documents to make information more accessible for applicants and developers.

**Question 43: Do you support a move towards a format for guidance that has a similar format to the national planning practice guidance?**

We are supportive of this proposal.

**Question 44: Are there any other guidance updates you think are needed to support the Nationally Significant Infrastructure Project reforms?**

Clarification will be required in relation to how the NSIP reform will affect other ongoing reforms, for example, the introduction of the Environmental Outcome Reports and the move away from Environmental Impact Assessments.

**Question 45: Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?**

No comment.

#### ***Further Information***

The NIA is happy to provide more context, or any clarifications desired on the content of our response and to ask our members where appropriate for additional information that may be useful.

Please contact Lauren Rowe, Policy Analyst for the Nuclear Industry Association, at [Lauren.Rowe@niauk.org](mailto:Lauren.Rowe@niauk.org) to do this.