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| Meeting: | NuLeAF Steering Group, 11 December 2006 |
| Agenda Item: | 3 |
| Subject: | Implementation: Key Issues for Discussion |
| Author: | Fred Barker |
| Purpose: | To review current information, highlight key questions for discussion and suggest next steps |

Introduction

This report identifies the following issues for discussion:

1. position on geological disposal
2. R&D on long-term uncertainties
3. role of the NDA
4. the terms of reference for the advisory body
5. process for initial invitations and responses
6. partnership formation and working
7. participation and community packages
8. right of withdrawal
9. siting and planning
10. new build wastes

In each case, current thinking is summarised and next steps proposed. Where appropriate, key questions are highlighted for discussion.

Recommendations

That the Steering Group:

- 1 Endorse CoRWM's recommendations relating to geological disposal (best available approach in current state of knowledge, commitment to R&D to reduce uncertainties, and flexibility to leave open the possibility of other practical alternatives).
- 2 Request that issues associated with (a) developing the NDA's role as implementing organisation and (b) developing the role of the new advisory committee, be included on the agenda for the liaison meetings between NuLeAF and Government departments.
- 3 Re-affirm its support for the approach outlined in its June statement, subject to: (a) elaboration about how willingness to participate on the part of affected communities might be identified;

(b) clarification about the allocation of decision-making responsibilities between a siting partnership and participating local authorities; (c) clarification of when benefit packages should become available, over what area and how they should be integrated with other initiatives; and (d) clarification about the point at which right of withdrawal would no longer be available.

- 4 Support the main points made at the regional seminars regarding the process for initial invitations and responding, and partnership formation and working.

1 Position on Geological Disposal

It is important to note that CoRWM's support for geological disposal¹ was expressed in the following terms:

“Within the present state of knowledge, CoRWM considers geological disposal to be the best available approach for ... long term management ... when compared with the risks associated with other methods of management.” [Recommendation 1]

“The aim should be to progress to disposal as soon as practicable, consistent with developing and maintaining public and stakeholder confidence.” [Recommendation 1]

“There should be a commitment to an intensified programme of research and development into the long-term safety of geological disposal aimed at reducing uncertainties at generic and site-specific levels ..” [Recommendation 4]

“The commitment to ensuring flexibility in decision-making should leave open the possibility that other long-term management options (for example, borehole disposal) could emerge as practical alternatives. Developments in alternative management options should be activity pursued through monitoring or and/or participation in ational or international R&D programmes.” [Recommendation 5]

In other words, CoRWM's support for geological disposal is caveated by reference to:

- it being the best available approach in the current state of knowledge
- a commitment to undertake R&D to reduce uncertainties about long-term safety and
- flexibility to leave open the possibility of other practical alternatives.

This perspective is broadly consistent with comments submitted to CoRWM by NuLeAF during the Committee's public and stakeholder engagement programme. It is suggested that NuLeAF re-affirm its support for this perspective.

2 R&D on Long-Term Uncertainties

In its response to CoRWM's recommendations, Government states explicitly that it accepts recommendation 1. In response to recommendation 4 Government states:

“Government accepts that there is a requirement for ongoing research and development to ensure optimised delivery of the geological disposal programme ... The NDA .. also has the function of carrying out research related to the design, construction and operation of future facilities ...”

“Ultimately, such research and development will have to support the preparation of a facility safety case that is acceptable to the regulators ..”

¹ ‘Disposal’ in the context of CoRWM's recommendations on geological disposal means the burial underground (200-1000m) of radioactive waste in a purpose built facility with no intention to retrieve the waste once the facility is closed.

In undertaking this work, the NDA will be required to have due regard to the views and requirements of Government and the independent regulators, as well as the advice received by Government from the independent advisory body ..” [P10, Govt response, 25 Oct 06]

In response to recommendation 5, Government acknowledges the need for “flexibility of decision-making” and states that it and the NDA will develop a framework that will include monitoring of international R&D on storage, geological disposal and “any new options that emerge”.

The Government’s response is therefore broadly consistent with CoRWM’s recommendations on geological disposal. There is a question mark, however, over the extent to which Government expects NDA R&D to be aimed at reducing long-term safety uncertainties at generic and site-specific levels. It is suggested that the EA be contacted to seek their views on this issue and that the NDA be asked to set out how such uncertainties will be addressed in developing the outline repository development plan [see recommendation under item 4].

3 The Role of the NDA

CoRWM did not make a recommendation about a preferred form of implementing body.

The Government decision to give the NDA responsibility for planning and implementing geological disposal is underpinned by the following statements:

it will “create a single national organisation with a single point of responsibility for managing the UK’s higher activity wastes in both the shorter and longer term.”

it has “the advantage of allowing one organisation – the NDA – to take an integrated view across the waste management chain, thereby enabling both long and short term issues to be addressed in planning and strategy development.”

by incorporating the skills and technology from Nirex into the NDA, “the potential for blurring of responsibilities and accountabilities is avoided”.

“the independent nuclear safety and environmental regulators are content with the Government’s decision ... They will take a particular interest in the NDA’s plans not only to maintain but also enhance its skill base and intellectual property, and in ensuring that regulatory independence will not be compromised.”

“Current arrangements for regulating the conditioning and packaging of intermediate level radioactive waste, which will be appropriately ring-fenced within the NDA’s operational structure, will remain in place, and will be reviewed and improved as the geological disposal programme proceeds.”

“Revised governance arrangements for the NDA will be set in place later in 2006 which will recognise the existing joint responsibilities of the DTI and the Scottish Executive, but also acknowledge the radioactive waste management policy interests of the Defra and the National Assembly for Wales.”

“There will also be appropriate consideration of the NDA’s strategy and programme for long-term radioactive waste management by the independent advisory body .. as part of its role in advising Government on its overall programme.” [p6-8, Govt response, 25 Oct 06]

At its meeting on 12 October, the Steering Group endorsed a policy statement setting out the pros and cons of three different models of implementing body (independent commission, independent implementing body and NDA). The statement identified the following disadvantages of the NDA model:

- Conflict between strong internal pressure to accelerate decommissioning and clean-up, and time needed for effective participation in siting process
- Existing Site Stakeholder Groups do not meet needs of partnership arrangements
- Potential conflict re delivering advice on packaging requirements and drive for cost savings
- Involved in commercial decisions re fuel manufacture, electricity generation and reprocessing

The Policy Statement concluded that whichever model is chosen, Government must show clearly how it intends to overcome, reduce or manage the disadvantages associated with its preferred model. It also stated that the institutional arrangements should be based on the following principles:

- be capable of securing public and stakeholder confidence and trust
- retain and utilise existing resources and expertise
- a clear and appropriate allocation of functions
- good governance (including openness and transparency, fair and effective public and stakeholder engagement, and taking full account of public and stakeholder views in decision-making)
- adequate funding in the short and long-term
- adequate staffing in terms of numbers, experience, expertise and commitment to the principles of good governance.

As summarised in the report under agenda item 2, Nirex have also argued that the model of repository project management should be based on active risk sharing between the implementing organisation and main contractor. The purpose would be to ensure that the implementing organisation could play a proper part in decisions about repository design changes as investigation and construction proceeds. Nirex argue that quality, timetable and costs problems can arise if too much risk is passed to the contractor. This raises questions about whether the current NDA contractor model provides risk-sharing arrangements appropriate to repository development.

Key concerns about the NDA model were highlighted in the Executive Director's letter to Government following the meeting with DEFRA/DTI on 13 November. The letter stated that:

There is concern about the pace and process of decision making about arrangements for developing the NDA's role as implementing organisation. As stated in NuLeAF's attached policy statement on 'Institutional Arrangements for Implementation' (October 06), there are disadvantages associated with the NDA model and, to ensure stakeholder confidence, there will be a need for Government to show how these disadvantages can be overcome, reduced or managed.

In particular, there will be a need to ensure that the NDA's drive to accelerate the decommissioning and clean-up of nuclear sites does not put undue pressure on the

timetable for repository siting. To increase the prospect for success, we consider that the siting process must allow sufficient time for potential host communities to participate effectively and for their concerns to be properly addressed. A second issue is that careful thought will need to be given to how to develop the NDA's capacity to work effectively in genuine partnership with potential host communities. A third will be to ensure that the NDA's contractor model enables an appropriate level of NDA involvement in decisions about repository design as site investigations and development proceeds.

Issues of concern have also been raised in a letter to the Secretary of State from Cumbria County Council. The council's letter of 24 November suggests that in order to secure public and stakeholder confidence and trust:

“the implementing body should have a clear identity within the NDA and be able to work in partnership with necessary contractors and communities. To do this, it will need to have adequate funding and staff in terms of numbers, experience and expertise. Therefore, the NDA should retain and utilise existing resources and expertise transferred in from Nirex for this function and enhance this as necessary. It will also need to be seen to operate independent of the commercial imperatives of the NDA.” [Cumbria County Council, 24 November 06]

The County Council letter also seeks assurance that there will be consultation with local authorities “on the arrangements for establishing the implementation body within the NDA to help arrive at a structure that will engender confidence.” It adds that it would be happy for this to be facilitated through NuLeAF.

The Executive Director's letter to Robert Jackson on 13 November proposes a series of liaison meetings between NuLeAF, DEFRA, DTI and NDA in the period January to April where developments and issues of concern can be discussed. It is proposed that NuLeAF request that issues associated with developing the NDA's role as implementing organisation be taken as substantive items for discussion at these meetings.

4 Terms of Reference for the Advisory Body

CoRWM recommended that “an independent body should be appointed to oversee the implementation process without delay”. It added that this body should have “overall responsibility for overseeing the research and development programme, the siting strategy and ensuring proper engagement with the public and stakeholders at each stage” (CoRWM Final Report, Doc 700, July 06, p115).

In its response, Government states that it “accepts the need for independent advice and scrutiny of the implementation process and the importance of appointing such a body without delay.” It is therefore reconstituting CoRWM to provide independent advice on implementation and other key radioactive waste management issues. The process of appointment is to commence shortly, in line with Office of the Commissioner of Public Appointments guidelines. Government hopes the new committee (also to be called CoRWM) will be in place by June, when the current CoRWM committee will be disbanded.

The draft terms of reference for the new committee include the following:

“Sponsoring Ministers .. will agree a two year rolling programme and budget for CoRWM’s work on an annual basis. Any in-year changes will be the subject of agreement by sponsoring Ministers.”

“The work programme may include activities from assessing waste packaging options, reviewing geological disposal facility delivery programmes and plans .., exploring site selection processes and criteria, and advising on the optimal approach to public and stakeholder engagement.”

“The committee will provide an annual report of its work to Government.”

“CoRWM shall undertake its work in an open and consultative manner. It will engage with stakeholders as required and it will publish its advice (and the underpinning evidence) wherever possible in a way that is meaningful to the non-expert.

“With the agreement of CoRWM’s sponsoring Ministers, other parts of Government, the NDA and the regulatory bodies may request independent advice from CoRWM. Relevant Parliamentary Committees may also propose work to sponsoring Ministers, for consideration in the advisory committee work programme.” [Govt response, 25 Oct 06, p17)

The Policy Statement endorsed by the NuLeAF Steering Group at its October meeting, drew the following conclusions about a new independent advisory committee:

- the committee must be able to scrutinise proposed implementation programmes, schedules and decisions in a timely fashion
- the committee must be able to oversee and review progress in all aspects of the siting process
- the committee should be able to review whether stakeholder and community views are being adequately addressed
- the committee should be able to review the adequacy of R&D programmes and peer review arrangements
- the committee should be able to play a part in dispute resolution
- the advice and recommendations of the review committee must be formally considered and a response published in a timely manner by the implementing body or Government as appropriate.

Following the meeting with DEFRA/DTI on 13 November, the Executive Director’s letter to Government stated that:

It will be important for developing stakeholder confidence that: (a) the reconstituted committee is able to deliver timely advice and recommendations on any aspect of the implementation programme: (b) its advice and recommendations are given formal consideration by the relevant bodies; and (c) responses from these bodies are published.

To this end, it might be appropriate to make an addition to the Committee’s terms of reference along the lines of: “The Committee’s advice and recommendations will be central to Government’s determination to maintain general public, and local community, confidence in the delivery of a geological disposal facility. Government will expect all parties subject to CoRWM’s advice and recommendations to publish responses within a jointly agreed timeframe.”

The purpose of the proposed addition is to ensure that the advice of the new committee is addressed in a timely and proper way, and that the outcome is published.

It is proposed that further issues associated with the terms of reference and programme of the new committee be included on the agenda for the liaison meetings between NuLeAF and Government departments.

5 Process for Initial Invitations and Responses

It is expected that the Government's implementation framework will set out what it sees as the main stages within the siting process for a geological disposal facility, including how the initial invitations to participate in the siting process are to be undertaken. In its response to CoRWM, Government states that in developing the implementation framework it will consider:

.. how interest from local communities could be mandated, registered and evaluated.

NuLeAF's initial thinking on the process for issuing invitations and responding is set out in the policy statement endorsed by the June meeting of the Steering Group. This states that:

Invitations to participate in a siting process for the development of a new facility should be sent to the local authorities in the areas of interest. On receipt of the invitations, the local authorities should initiate widespread discussions to identify community views about participation.

A decision to participate in the siting process should be based on an expressed willingness to do so on the part of directly affected communities. The decision whether to participate should be taken by the relevant local authority (unitary areas) or local authorities (two-tier areas), after engagement with local and neighbouring communities.

At the meeting with DEFRA/DTI on November 13, Government officials raised the possibility that the outcome of an initial geological screening of the UK might not be published before invitations to participate are issued. Concern about this possibility was expressed in the Executive Director's letter to Government of 17 November. This states:

Based on CoRWM's recommendations, there is an expectation that an initial screening of the UK will be undertaken so that invitations to participate in the siting process are only issued to those local authorities in areas that are potentially suitable for repository development. This approach attracts support because it would enable local authorities in areas, for example, with little prospect of having potentially suitable geologies, to avoid unnecessary and difficult discussions about whether to participate in the siting process.

This position was widely supported at the regional seminars, and highlighted by the Executive Director and others at the DEFRA workshop on implementation on 23 November (see report under item 2).

Other outputs from the regional seminars on the process for issuing invitations were:

- Participants pointed to the need for initial invitations to participate to be preceded or accompanied by opportunities for the briefing of members and officers, and by high quality public information about the nature of radioactivity, radioactive waste management, geological repositories, potential impacts and benefits and the siting process.
- Participants pointed to the need for an ‘evaluation period’ following receipt of invitations to allow authorities that might wish to participate to engage with local communities and assess the pros and cons.
- Participants pointed out that sufficient time and resources should be provided to enable this initial engagement and evaluation to be undertaken effectively. Involvement packages should cover the costs incurred at this step.

These points are consistent with, and supplementary to, the position agreed at the June Steering Committee meeting.

It is important to note, however, that this position may be at variance with elements of CoRWM’s position on initial expressions of willingness to participate. In particular, CoRWM’s report to Government states that:

“.. CoRWM considers there should be scope for communities to be self-defining in terms of an initial willingness to participate ... [however] ... the decision to participate .. must be ratified by the appropriate elected representative body/bodies. However in some parts of the UK, the areas that are covered by local authorities are so large that it may prove difficult to resolve conflicts between potential host communities and the wider area. In such cases, special arrangements for ratification .. may be necessary.” (CoRWM report to Govt, Doc 700, July 06, p137]

A position more consistent with that of NuLeAF is taken in CoRWM’s more detailed report on implementation:

“.. the ability to propose involvement should be vested in an elected body, not through non-representative bodies or the private sector. Only then can democratic processes offer any form of control. However the elected body would be required to engage with the identified community to determine the level of public acceptability for proposed involvement. The issue of self-defining communities does need further consideration however ...” (CoRWM Implementation Report, Doc 1703, Nov 06, para 68)

These two statements leave it unclear what CoRWM means by “self-defining communities” in relation to initial expressions of willingness to participate in a siting process. Nor is it clear what is meant by “special arrangements for ratification” of such expressions of interest. **It is suggested that the Steering Group discuss these issues and consider whether it wishes to develop a response.**

Additional questions concern the nature and level of local public support that might be considered necessary to confer legitimacy on a local authority decision to participate, and how that public support should be identified. The ‘how’ might include one or more of the following:

- Local focus groups or citizens’ panels, which could provide insights into issues of concern, and help identify the social conditions under which participation might be acceptable.

- Local opinion polling to provide a quantitative indication of public views.
- A local referendum, which is the only fully inclusive method of providing a quantitative measure of public views on a specific issue².

To be legitimate, quantitative measures should be preceded by extensive information provision and opportunity for discussion. It is usually the case that deliberative processes are able to generate a more detailed understanding of the nature of public views.

NuLeAF's current statement says: "A decision to participate in the siting process should be based on an expressed willingness to do so on the part of directly affected communities." In addition to raising the question of what mechanism should be used to show whether willingness to participate exists, it begs the question of how "affected communities" should be defined at this initial step when it is likely that broad areas are being considered rather than specific sites.

It is suggested that the Steering Group discuss these issues and consider whether it wishes to develop a specific view.

It is proposed that the Steering Group re-affirm its support for the approach outlined in the June statement, subject to elaboration about how willingness to participate on the part of affected communities might be identified. It is also proposed that the Steering Group support the points made at the regional seminars (as summarised above), and consider whether it wishes to express a view in response to CoRWM statements about the role of "self-defining communities". [See also the proposals for production of a new briefing paper under item 4].

6 Partnership Formation and Working

CoRWM recommended that:

Community involvement should be achieved through the development of a partnership approach, based on an open and equal relationship between potential host communities and those responsible for implementation. [Recommendation 12]

It highlighted that one of the advantages of the partnership approach is that it achieves an environment in which host communities can engage with an implementing body without feeling victimised by a national process over which they ultimately have little control.

For CoRWM, a key issue is who should represent community interests in the partnership. It argues that the partnership should include a wide representation within the community and reflect the full range of interests as far as practicable, including those whose interests embrace a wider area. It adds that proposals developed through partnership must be ratified by the appropriate elected representative body/bodies. It notes, however, that in some parts of the UK, the areas covered by local authorities are so large that it may prove difficult to resolve conflicts between potential host

² Issues associated with the potential use of referenda include where the boundaries of 'local' are drawn and what level of majority might be considered to confer legitimacy on a decision to participate.

communities and the wider area. In such cases, CoRWM states, special arrangements for the ratification of partnership proposals may be necessary. [A similar issue was raised for discussion in section 5 of this paper].

In its response to CoRWM, Government states that “open and transparent partnerships with potential host communities“ will be one of the “pillars” on which its approach will be based. It adds that the details of exactly what this might entail, and how it would operate in practice, need to be considered and developed in the proposed implementation framework.

NuLeAF’s initial thinking on partnerships is set out in the statement endorsed by the June meeting of the Steering Group:

In order to ensure effective involvement of local communities, bodies and organisations, local authorities participating in a siting process should take steps to form appropriate local partnerships.

The role of a local partnership would be to engage fully in the siting process, undertaking the necessary scrutiny, research, consultation and negotiation on behalf of its members. In essence, local partnerships would advise and recommend, but the appropriate local authority/ies covering the area of interest would take major decisions, for example, exercising the right of withdrawal.

There needs to be flexibility in the geographic scope and membership of a local partnership to take account of local circumstances. The make up of partnerships should be a matter of local decision. Members might include county and district authorities containing the location of the potential site, Parish/Town Councils containing or neighbouring the potential site, neighbouring local authorities, and representatives from local stakeholder organisations.

The October meeting of the Steering Group also endorsed a briefing paper on ‘siting partnerships’ that reviewed international and UK experience of partnership working. This drew the following conclusions:

.. a national framework should be established to guide and facilitate partnership formation in areas that may be willing to host a geological disposal facility. That framework must be sufficiently flexible to enable local circumstances to be taken fully into account in shaping the partnerships that are created. This is particularly important when it comes to the definition of what is meant by local, for decisions about local representation and for taking into account the history of local relationships between stakeholders.

UK experience of LSPs .. provides important learning, including the need for a shared vision, transparent and consistent procedures for recruitment, early investment in training and skills development, adequate resourcing to develop competencies and sufficient time to allow these requirements to be met.

International and UK experience also highlights the central importance of local government to successful partnership working. It is anticipated that the local authority would take a lead role in initiating local discussions to develop a ‘siting’ partnership.

The review of international and UK experience was drawn to Government’s attention in the Executive Director’s letter of 17 November. This also highlighted that:

In essence, the purpose of a local partnership would be to ensure that all the concerns of participating communities are properly addressed. Its role would be to scrutinise, research, consult, and negotiate as appropriate, so that decisions within the siting process are fully informed and secure the confidence of local stakeholders.

Participants at the regional seminars supported the concept of partnership working and the need for a specific focussed vehicle to undertake that role. They made the point that a 'siting partnership' should link into or liaise with local strategic partnerships. Some participants were concerned that LSPs were not sufficiently resourced or did not have sufficient public profile to be the primary vehicle. The points were also made that a 'siting partnership' would need to be representative of a wide range of local interests and be able to sustain its work over long timescales.

As reported under item 3, Nirex has also published a note on 'A Framework for UK Partnerships'. In the main this is consistent with NuLeAF's perspective on partnerships, including the mission and roles of the partnership, membership, funding and the primary decision-making role of local authorities.

An important issue for discussion is the practical application of the principle that (a) partnerships advise and recommend and (b) local authorities take major decisions. This needs to be clarified by reference to a wider range of potential decisions. It seems clear, for example, that:

- local authority/ies should take decisions about continued participation at key stages, or exercising a right of withdrawal, after reviewing recommendations from the partnership; and
- a partnership should take decisions about how it monitors and scrutinises developments in the siting process, what research it commissions relating to the siting process, how it informs and consults the wider public and how it goes about formulating proposals for community packages.

However, the allocation of decision-making responsibilities for other key issues is perhaps less clear cut. In particular, who should have responsibility for making decisions about:

- the local acceptability of proposed participation and community packages?
- which sites within an area should be subject to field investigations?
- whether the repository should be designed to allow an extended period of retrievability of wastes?³
- whether to accept an increased inventory of wastes in the repository should new nuclear power stations be built?⁴

³ CoRWM members concluded that early backfilling and closure was preferable to an extended period of underground storage prior to closure. However this was not recommended to Government because some CoRWM members considered that the issue should be a matter for decision during the siting process, taking into account the views of potential host communities. In its response to CoRWM, Government states that it will consider what aspects of facility design could be determined by local communities when preparing the draft implementation framework.

⁴ CoRWM recommends an additional step in the negotiation process with host communities to allow them to take a decision to accept or reject any additional waste (see also section 10 below).

In each case, it is suggested that the Steering Group discuss and reach a preliminary view on whether the local dimension of decision-making should lie with the partnership or with the relevant local authority/ies.

It is proposed that the Steering Group re-affirm its support for the approach outlined in the June statement and in the October Briefing Paper, subject to clarification about the allocation of local decision-making responsibilities on the issues highlighted above. It is also proposed that the Steering Group support the points made at the regional seminars (as summarised above). The Steering Group should also consider whether it wishes to express a view on CoRWM's statement about the potential need for special arrangements to ratify partnership proposals in large local authority areas. [See also the proposals for production of a new briefing paper under item 4].

7 Participation and Community Packages

CoRWM recommended that:

Willingness to participate should be supported by the provision of community packages that are designed both to facilitate participation in the short term and to ensure that a radioactive waste facility is acceptable to the host community in the long term. Participation should be based on the expectation that the well-being of the community will be enhanced. [Recommendation 11]

CoRWM defined “well-being” in the following way:

By ‘well-being’ we mean those aspects of living that contribute to the community’s identity, development and sense of positive self-image. Well-being is a broad concept and not narrowly defined in terms of financial incentives or community facilities. A community’s well-being may be realised in a variety of ways through economic development, through greater control over its affairs and through an ability to define and realise its own vision for its future. [CoRWM report to Govt, July 06, p134]

In its further report on implementation, CoRWM places emphasis on the need for communities to be able to develop their own views on the nature of the benefits packages that would enhance their well-being.

At this stage, Government has not given a clear commitment to support packages, but has stated that in developing the implementation framework it will consider:

What could be included in any possible participation and benefits packages, and when and how they would be defined and how we determine whether they are likely to be affordable or offer good value for money. [Govt response, 25 October 06, p13]

NuLeAF’s initial thinking is set out in the June statement:

In order to empower and incentivise local authorities and communities, support packages should be available. These packages should include:

- Financial support to meet the costs of effective participation in the siting process. For example, covering the costs of local partnerships, and their scrutiny, research and consultation roles.

- Benefits to compensate for impacts to the area. Packages of benefits would be negotiated within an agreed national framework, with an emphasis on contributing to the sustainable development of the affected area and the well-being of local communities and their descendants. It is envisaged that the benefits would start to become available once facility development was underway.

This perspective was informed by the research commissioned from Enviros, which discusses international experience and provides an annex setting out the types of benefits provided in different countries' siting programmes [Miller B et al, 'The Implementation of a National Radioactive Waste Management Programme in the UK ...', June 06].

Participants at the regional seminars expressed the view that benefits packages will need to be substantial enough to enable local judgements to be reached that the benefits of repository developed outweigh the costs. Views were expressed that packages should: provide for the longer term as well as current generations; focus on the local area containing the site but make some provision for benefits across a larger area; and provide some initial benefits prior to repository construction (which might not start for 30 years or so).

A further important issue is how the development of local proposals for benefits packages could be integrated with other initiatives affecting an area, for example, support from existing NDA mechanisms and initiatives from Regional and Local Development Agencies.

It is suggested that the Steering Group discuss and reach a preliminary view on:

- **Whether to support CoRWM's definition of 'well-being'**
- **When initial benefits might start to become available in a siting process (once facility development is underway or earlier?)**
- **How development of local proposals for benefits might be integrated with other initiatives affecting an area**
- **The geographic scope of potential benefits (note view from regional seminars above).**

Subject to clarification about these issues, it is proposed that the June statement be developed as appropriate. [See also the proposals for production of a new briefing paper under item 4].

8 Right of Withdrawal

CoRWM recommended that communities should have the right to withdraw from a siting process up to a pre-defined point [recommendation 13].

At this stage, Government has not given a clear commitment to a right of withdrawal, but has stated that in developing the implementation framework it will consider:

... how willingness to participate and any ability to withdraw might be incorporated into arrangements [Govt response, 25 October 06, p13]

NuLeAF's initial thinking is set out in the June statement:

The siting process must include a right of withdrawal on the part of participating communities. A decision to withdraw would be made by the relevant local authority/ies, following engagement with local communities, and in the light of material evidence that set out the case for withdrawal.

The implementing body would respect the decision of the local authority/ies to withdraw and would remove the affected area from the siting process.

It is envisaged that the decision to participate and the right of withdrawal would be set out in a formal agreement between the implementing body and the relevant local authority/ies. This might take the form, for example, of a Memorandum of Agreement. This would specify the sort of conditions under which a right of withdrawal could be exercised (for example, if evidence became available that the proposed site was unlikely to be acceptable on environmental or safety grounds).

The formal agreement should also identify the milestone beyond which a right of withdrawal would no longer be available. This might, for example, be when full planning permission is granted for the development of the facility.

In its further report on implementation, CoRWM briefly reviews the nature of the right of withdrawal in Belgium, Finland and Sweden. In Belgium there is a de facto right of withdrawal based on a 'gentleman's agreement' with the implementing organisation. In Finland and Sweden, the right of withdrawal has a legal basis. In Sweden, the right to withdraw can be overridden by Government on appeal by the developer (which has stated it would not take this step).

CoRWM also states that:

Such rights need to be balanced with responsibilities. There may be a case for constraining the ability to withdraw at different stages ... [Implementation Report, Doc 703, Nov 06, para 109]

In its Technical Note on a framework for partnerships, Nirex suggests that there might be two points at which a right of withdrawal could be exercised: before a short-list of sites for investigation is agreed; and before a preferred site is selected for detailed underground investigation. Nirex adds that following the second step repository development would be dependent on regulatory approval and any conditions set by the local community.

The June statement suggests that right of withdrawal should no longer be available once full planning permission is granted for development of the facility. This is later in the siting process than suggested by Nirex. The Steering Group's views are sought on the point at which the right of withdrawal should no longer be available. The Steering Group may also wish to express preliminary views on the conditions under which a right of withdrawal could be exercised and the extent to which these issues should be addressed in the draft framework for implementation.

Subject to clarification of these points, it is proposed that the Steering Group re-affirm the position in the June statement. [See also the proposals for production of a new briefing paper under item 4].

8 Siting and Planning

Neither CoRWM nor Government have expressed a view about issues associated with a siting process and planning requirements.

NuLeAF's initial thinking is set out in the June statement:

NuLeAF believes that the process for siting long-term radioactive waste management facilities should involve clearly defined decision milestones that are integrated with evolving planning and regulatory processes, including requirements for sustainability appraisal and strategic environmental assessment.

During the course of a siting process it may be necessary to review, amend or develop Local Development Frameworks (LDFs) or Regional Spatial Strategies (RSSs).

In order to clarify what is required of the developer in the siting process, the Government should issue a Planning Policy Statement specific to long-term radioactive waste management facilities.

At the regional seminars, participants called for a very clear national framework to be established, with provision of guidance to planners about how a process based on willingness to participate can be integrated with planning requirements. Some participants considered that Regional Spatial Strategies and Local Development Plans should be amended to include reference to repository siting once a clear willingness to participate had been established. Others were not sure that this route should be followed given the unique nature of a geological repository.

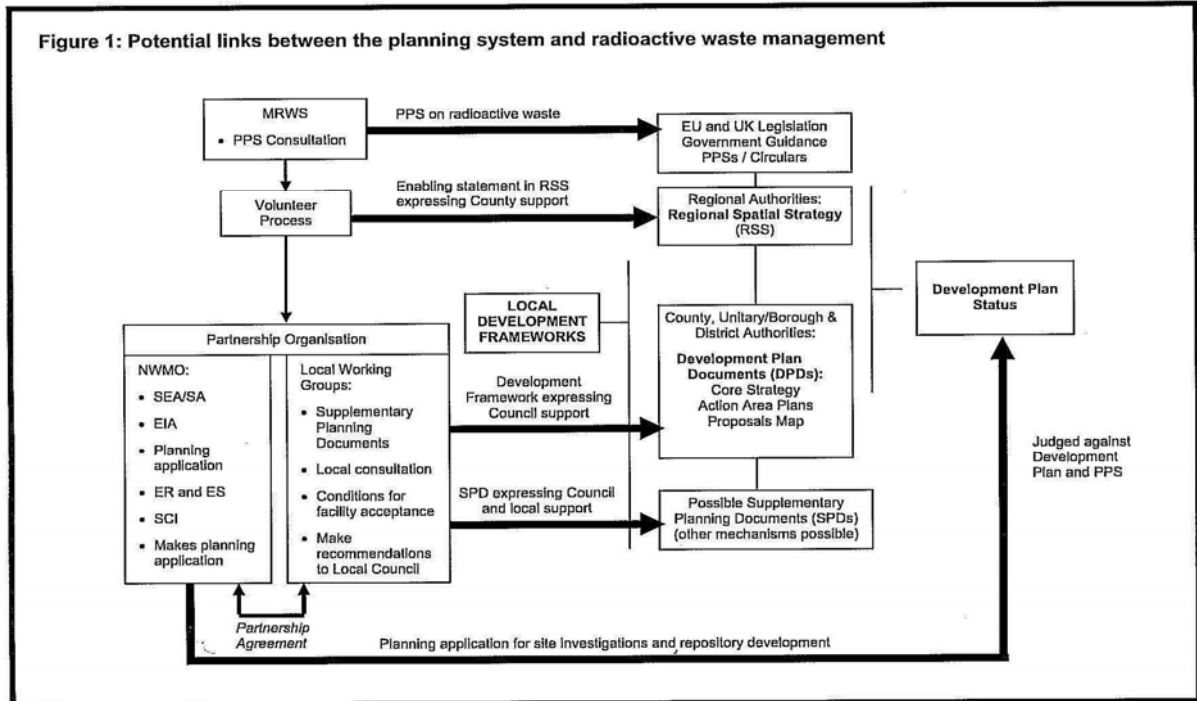
In Technical Note No 515154, Nirex has outlined the potential links between the siting process and planning system, including the diagram on the next page.

Points to note include:

- It is not clear what level of guidance on the siting process and planning will be included in the implementation framework. Whether a Planning Policy Statement is required specifically on repository siting may depend on coverage in the implementation framework.
- For those areas wishing to participate in the siting process, the scope and timing of the need to amend/develop Regional Spatial Strategies, Minerals and Waste Development Frameworks and Local Development Frameworks is unclear.
- Complex questions arise about how to tie together statutory planning roles, requirements for SEA/EIA, the role of 'siting partnerships' (and partners) and rights of withdrawal.
- An additional question is the need to keep a 'chinese wall' between local government policy (eg re willingness to participate) and development control roles.

It is suggested that these points should be addressed in a new briefing note, prepared for input to inform Government thinking on the implementation framework (see proposals under item 4).

DRAFT FOR DISCUSSION



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9 New Build Wastes

CoRWM recommended that:

At the time of inviting host communities to participate in the implementation process, the inventory of material destined for disposal must be clearly defined. Any substantive increase to this inventory (for example creation of waste from a new programme of nuclear power stations ..) would require an additional step in the negotiation process with host communities to allow them to take a decision to accept or reject any additional waste. [Recommendation 6]

In response, Government agreed with the need for clear definition of the inventory and stated that “consideration of wastes from any new nuclear build will be part of the considerations in developing a partnership approach”.

The view expressed in NuLeAF’s June statement was: “At the start of the process there should be clarity about the scale and nature of the inventory of wastes that is to be managed in the facility. Any increases to that inventory should be subject to negotiation and agreement with participant local authorities and communities.”

It is suggested that the Steering Group re-affirm this position.