

Meeting:	NuLeAF Steering Group, 20 October 2010
Agenda Item:	4
Subject:	Consultation on NDA Strategy and associated developments
Author:	Fred Barker
Purpose:	To report on proposed NDA Strategy and its implications

Introduction

This report covers:

- consultation on NDA's proposed Strategy;
- the Environment Agency presentation to the July Steering Group meeting;
- the need for improved local engagement between NDA, Site Licensee Companies, regulators and local authorities on site restoration at NDA sites;
- potential development by NDA of a 'framework for handling new developments';
- the establishment of community funds in association with radioactive waste management developments;
- regulation and consultation on inter-site transfers of radioactive waste; and
- changes to NDA's arrangements for national stakeholder engagement.

Recommendations

That the Steering Group:

- 1 agrees the main themes of a response to consultation on the NDA's proposed Strategy and delegates authority to the Chair and Vice Chair to approve the submission of detailed comments;
- 2 delegates authority to the Chair and Vice Chair to approve arrangements for encouraging greater engagement between NDA, Site Licensee Companies, regulators and member local authorities on site restoration at NDA sites;
- 3 welcomes in principle the NDA's intention to produce a 'framework for handling new developments' and offers to participate in its development;
- 4 agrees to consider at its next meeting a revised Briefing Paper on the establishment of community funds in association with radioactive waste management developments; and

- 5 agrees to write to NDA to suggest that it consider how to make most effective use of engagement with NuLeAF as an ‘existing mechanism’ for engaging with local authorities in England and Wales.

Contribution to Achieving Strategic Objectives

The activities described in this report relate to the following NuLeAF objectives:

- To seek to ensure that proposals for new projects that may be simpler, faster or cheaper than current practices can be convincingly demonstrated to be the best options, taking into account a full range of life cycle, safety, environmental and socio-economic factors, and stakeholder views.
- To encourage regional approaches where they are supported by affected local authorities in light of the overall balance of benefits and disadvantages
- To seek to ensure that a consistent, proportionate and transparent approach can be taken to the establishment of Community Funds associated with key radioactive waste management facilities.
- To encourage member authorities with licensed nuclear sites to ensure that effective engagement arrangements with SLCs and NDA are in place, either through the Site Stakeholder Group or direct engagement.

1 Consultation on NDA Strategy

Consultation on NDA's draft Strategy started on 1 September and will finish on 24 November. The consultation is a requirement of the Energy Act and follows on from the NDA's first Strategy which was adopted in 2006. Key aspects of the proposals as described by NDA are as follows:

- **Overview:** Site restoration is our driving strategic theme and all other strategies support or enable its delivery (p11). Our priorities are to deliver risk and hazard reduction and cost-effectiveness (p13). Where the risks are intolerable we will take urgent action to reduce them (p13). The legacy ponds and silos at Sellafield represent an intolerable risk and are our top decommissioning priority (p19). Where the risks are tolerable we will pursue hazard and risk reduction. Where risks are broadly acceptable and hazards have been reduced, our attention turns to site restoration in line with our site interim and end state objectives. In future more sophisticated and diverse approaches will be needed to deliver best value – this may include encouraging work force mobility, or moving materials and waste from one site to another where the facilities exist to best manage them (p13).
- **Site restoration:** We have agreed site end states which define our long-term restoration objectives. In addition we will identify interim states to focus delivery on nearer term restoration goals. These will be measurable, demonstrable and could align to stepped risk or hazard reduction targets, decommissioning phases, contract delivery milestones or opportunities to release land for its next planned use (p14). The strategy for interim states and a graded approach to site restoration is under development. Interim states have the potential to affect the community and local authority development plans. This emphasises the need for ongoing stakeholder engagement (p23).
- **Integrated waste management:** Strategic decisions about waste management are informed by the following key principles: risk reduction is a priority; centralised and multi-site approaches should be considered where they are advantageous; waste should be minimised; and the application of the waste hierarchy needs to take into account value for money, affordability and the protection health, safety, security and the environment (p15). We will investigate opportunities to share waste management infrastructure across the estate and with other waste producers, and engage with interested parties from an early stage (p15). We will supply information and advice to utilities involved in the UK's new reactor programme to further integrate the UK approach to radioactive waste management (p15). We will develop commercial opportunities to maximise revenue from our existing assets, operations and people. These opportunities might include deploying existing facilities to our commercial advantage (p15).
- **Higher Activity Wastes (HAW):** Our efforts will focus on realising strategic opportunities, addressing key delivery risks and improving the baseline delivery programme. We are exploring the possibility of developing alternative waste treatment capabilities, for example, thermal treatments, that could lead to significant benefits such as waste volume reductions. A business case analysis is required, which will consider multi-site opportunities. We are also exploring opportunities to share current and planned storage assets, and alternative approaches to treating and disposing graphite reactor wastes, including near surface disposal (p41).
- **Low Level Waste (LLW):** see the recently published UK nuclear industry LLW strategy (and the update in the Progress Report under item 6).
- **Decommissioning and clean-up:** We will complete the decommissioning and clean-up of our sites as soon as reasonably practicable, but case-specific decisions will be made on

when and how this is achieved. Decisions will take account of risk and other relevant factors to determine whether continuous or deferred decommissioning and clean-up is the most appropriate strategic option (p19).

- **Contaminated land:** All SLCs have an improved model of land quality and have or are developing land quality management plans. We must determine the most appropriate way to manage large volumes of lightly contaminated material. Because intervention may do more harm than good, we will explore opportunities for managing contaminated land in-situ while still achieving the level of restoration required for the Site End State. SLCs will deliver the strategy through early appraisal of options for managing land quality on a case-specific basis (p20-21).
- **Future engagement:** As our strategy develops we plan to engage with relevant stakeholders on the definition of interim states, options for oxide fuel management and the possible use of centralised and multi-site solutions (p13).

The draft strategy also highlights the uncertainties that arise around **public sector funding** and notes that the resolution of key strategic issues and the status of current SLC Lifetime Plans are “indicative and subject to change”. It expects the uncertainties to be reduced by the time the strategy is formally approved by Government in 2011.

The proposed Strategy is accessible via the NDA website at [Consultation Details](#).

2 Environment Agency Presentation to the July Steering Group

The EA presentation made a number of points relevant to consideration of how to respond to the proposed NDA Strategy. In particular, the presentation referred to:

- The need for improved recognition and distinction of key site restoration tasks so that they are not blurred in site Lifetime Plans (LTPs) and avoid potential confusion between short and long-term strategic objectives.
- The need for clearer decade by decade plans to show how site restoration aims and objectives will be achieved, including clarity on major milestones, infrastructure needs and end dates for completion of key site restoration tasks.
- The potential need for improved ‘ways of working’ at a local level, including the possibility of local partnering groups involving the NDA, SLCs, regulators and local authorities.
- The potential need for formal written agreements between NDA, the SLCs, regulators and local authorities, identifying agreed outcomes for long-term clean-up programmes.

At its meeting on 1 October, NuLeAF’s Strategy Review Group (SRG) agreed that further discussion should take place with the EA to seek its views on the extent to which the NDA’s proposed Strategy meets its suggestions, and to clarify next steps. At the time of writing the Executive Director (ED) is seeking to arrange the meeting with EA.

3 The Need for Improved Local Engagement between NDA, Site Licensee Companies, Regulators and Local Authorities on Site Restoration at NDA Sites

The SRG also gave preliminary consideration to the need for improved local engagement arrangements to discuss site restoration at NDA sites and the role that NuLeAF might play in facilitating these arrangements. This is a further matter for discussion at the meeting that is being sought with EA.

Taking into account the key issues in the proposed NDA Strategy and the issues raised by EA, the SRG identified the following items for discussion between the relevant local authorities, the NDA, the SLCs and regulators:

- the likely impact of public spending cuts on site decommissioning and clean-up activities and milestones;
- the process for defining interim states en route to achieving site restoration;
- the potential timetable for developing any new treatment, storage or disposal facilities on or adjacent to the nuclear site;
- the potential for on-site treatment, storage or disposal facilities to have a multi-site or national role and likely scale and timing of radioactive waste ‘imports’ (and whether this is within the scope of current planning permissions and consistent with local development plans);
- the potential for the use of off-site facilities for the treatment, storage or disposal of radioactive wastes (at other nuclear sites, or other waste management facilities within or outside the area), and the implications for the transport of radioactive materials from the site;
- the potential for local authority participation in assessments to identify preferred options for interim states, waste management and disposal, facility decommissioning, and management of contaminated land;
- (where applicable) the relationship between restoration at NDA sites and the development of new nuclear power stations at neighbouring sites; and
- the potential need for enhanced local partnering arrangements and local agreements relating to site restoration.

It is clear that there is an important and substantive agenda for discussion.

4 Potential Development by NDA of a ‘Framework for Handling New Developments’

As reported to the July meeting of the SG, during pre-consultation engagement on the Strategy, the ED alerted the NDA to the need to carefully consider how certain elements of proposed Strategy would be implemented. In particular, the ED wrote to the NDA to suggest that:

... ‘strategic opportunities’ – for example alternative disposal routes for VLLW/LLW, consolidation of storage/treatment, near surface disposal of short-lived ILW/graphite - would remain at the aspirational level if NDA does not explicitly develop appropriate implementation strategies. Furthermore, without such strategies there is a considerable risk that attempts at implementation will degenerate into a campaign of attrition fought through the development control process – characterised by applications, refusals and appeals, leaving bad feelings and costly bills, and sitting uncomfortably with the NDA’s mission statement about delivering publicly acceptable solutions, and its long-standing commitment to maintain the confidence of stakeholders.

Following discussion at the July SG, it was agreed to write to the NDA asking that it take account of the implications of the Aarhus Convention and associated EC or UK legislative requirements in the way it develops its thinking on implementation of key aspects of strategy.

This was done in mid July. The ED’s e-mail highlighted that: Article 2 of Directive 2003/35/EC states that “member states shall ensure that the public is given early and effective

opportunities to participate in the preparation and modification or review of the plans or programmes required to be drawn up under the provisions listed in Annex 1”; and that “the public is entitled to express comments and opinions when all options are open before decisions on the plans and programmes are made;” (para 2 (b)).

The NDA has responded to these requests by preparing a preliminary draft of a ‘Framework for handling new developments related to the management of radioactive wastes’. This was discussed in break-out sessions at the September meeting of its National Stakeholder Group (NSG).

The stated purpose of the draft framework is to “promote sound decision-making and effective engagement with local people, industry regulators and planning authorities”. It seeks to set out:

- the scope of the developments to which it applies
- top level principles for assessing, proposing and implementing proposals
- guidance on planning and decision-making
- a commentary on local community benefits and the planning system.

Following the NSG, the ED submitted some comments on the draft framework, including:

- the need to define ‘development’ broadly (so that it includes, for example, proposals to share existing treatment or storage facilities and develop new stores with a multi-site function);
- the need to include high level principles about (a) public acceptability and (b) the need for early engagement with relevant local authorities (including those representing communities with facilities that might be proposed for receiving wastes from other sites);
- the need for a balanced interpretation of the proximity principle (not just that it proposes that wastes should be managed in the ‘nearest appropriate installation’); and
- the need to take account of recent developments in local community benefits.

Note that it is also possible to conceive of some potential developments – particularly multi-site or national near surface disposal facilities (for LLW and/or graphite reactor wastes) – where implementation would require an approach based on voluntarism and partnership akin to that being used in GDF siting.

At the time of writing, the timeframe and process for developing the framework are unclear. However, it is recommended that the SG welcome the development of a framework in principle and offer to participate in its development.

5 Developments Relevant to the Establishment of Community Funds in Association with Radioactive Waste Management Developments

It is undoubtedly the case that some potential developments – particularly those with a multi-site or national role, and/or significant impacts – will raise questions about the need for associated community funds/benefits.

This is an issue that NuLeAF has previously addressed in two Briefing Papers:

- Briefing Paper 14 (March 2008): this was written to inform discussion with Government about potential development of a national framework for community

funds associated with the development of radioactive waste management facilities. It covered: recent developments in community funds; the legislative basis for provision of community funds; justifications for providing community funds; and the need for a national framework and a proportionate approach. The paper is available on the NuLeAF website at [BP 14](#).

- Briefing Paper 16 (May 2009): this explained that Government had made it clear that it would not adopt a strategic approach to Community Funds to encourage provision of facilities offering a multi-site and/or multi-customer service, and that its view was that the question of fund provision should be considered on a case by case basis as a normal part of the planning process. The paper pointed out that such an approach would be consistent with well documented national and local policy approaches to the use of planning obligations for non-radioactive waste developments, and the approaches taken to the Copeland and Dounreay Community Funds. In the light of this, the paper covered: the basic principles of planning obligations; the extent of the use of planning obligations; local authority policies and approaches to planning obligations; the use of S106 with regard to developments for radioactive waste management; and the potential impact of the Community Infrastructure Levy (CIL). The paper is available on the NuLeAF website at [BP16](#).

There have been a number of developments since the publication of BP16 which mean that it would be appropriate to review and revise NuLeAF's advice on this matter. These developments include: introduction of the CIL and review by the new Government (outcome awaited); discussion about community benefits associated with the proposed nuclear power station at Hinkley Point; consideration of the establishment of a community fund in association with the proposed spent fuel dry store at Sizewell B; Ministerial consideration of the need for financial incentives associated with controversial waste facilities¹; and a new report on the international benchmarking of community benefits associated with radioactive waste management facilities².

It is recommended therefore that the SG agree to consider at its next meeting a revised Briefing Paper on the establishment of community funds in association with radioactive waste management developments.

6 Regulation and Consultation on Inter-Site Transfers of Radioactive Waste

The Environment Agency has explained the arrangements for the inter-site transfer of radioactive materials as follows:

Under the Environmental Permitting (England and Wales) Regulations 2010 (EPR), the Environment Agency will continue to consult on all new applications for environmental permits and variations where there is a high public interest. The main change in consultation arrangements is in relation to inter-site transfer of radioactive waste for disposal. Under the new arrangements, the Environment Agency does not need to consult when a disposal site, holding an appropriate environmental permit, accepts radioactive waste from a new consignor. Before the first consignment of radioactive waste is received from a new consignor, a disposal facility operator will be

¹ See, for example, 'Ministers ponder incentives for households near planned incinerators', Local.Gov.co.uk, 5 October 2010.

² A Bergmans, 'International Benchmarking of Community Benefits related to Facilities for Radioactive Waste Management', Commissioned by EDRAM, January 2010.

required to inform the local authority of the origin and nature of the radioactive waste. To maintain transparency, the Environment Agency will be amending the environmental permits for operators of radioactive waste disposal facilities to include a legally enforceable condition requiring the operator to provide such information to their local authority.

Discussion in NuLeAF's Radioactive Waste Planning Group has identified a potential issue with these arrangements as they affect inter-site transfers for treatment, storage or disposal in an existing facility. This relates to whether the planning permission for the facility in question allows use of the facility for managing wastes from other sites. The ED wrote to the EA to point out that it cannot automatically be assumed that a planning permission will allow such use. As such, there is a need to ensure that operators liaise with the relevant planning authority in advance of receipt of a first consignment from a new consignor, not just to inform them of the impending receipt, but to request that the terms of the relevant planning permission and associated conditions be checked to provide assurance that use of the facility for managing transferred wastes would be within the terms of the relevant planning permission. Where it would not be, planning permission would need to be sought.

The EA has agreed to draw this potential issue to the attention of relevant operators by letter and adding a note in its published guidance documents. The note will be to the effect that an operator should check whether the acceptance of radioactive waste from a new consignor falls within the terms of the relevant planning permission and contact the relevant local authority if there are any questions.

The SG should note that this is a matter of some potential significance, given the proposed emphasis in NDA's proposed Strategy on 'multi-site solutions'.

7 Changes to NDA's Arrangements for National Stakeholder Engagement

At the NSG in September, the NDA presented its response to The Environment Council's review of its arrangements for national engagement. This is available on the NDA website at [Review-of-National-Stakeholder-Engagement-Arrangements](#).

In the future the NDA intends to link its national engagement more closely to its process for developing its Business Plan. The NDA envisages the following steps:

- on an annual basis, the NDA consults and decides on a three year forward look 'engagement agenda';
- the NDA Board and Government approve the 'engagement agenda' as part of their approval of the NDA Business Plan;
- NDA considers whether 'existing mechanisms' can deliver some or all of the required engagement; and
- NDA designs specific engagement events or processes for topics that cannot be addressed through existing mechanisms.

Although the NDA does not rule out organising large multi-stakeholder meetings in the future, the new approach means that the NSG will no longer be convened twice a year.

It is recommended that the SG agree to write to NDA to suggest that it consider how to make most effective use of engagement with NuLeAF as an 'existing mechanism' for engaging with local authorities in England and Wales.

8 Main Themes for the Response to Consultation on NDA Strategy

It is suggested that the following themes are highlighted in NuLeAF's response to consultation on NDA Strategy:

- the need for improved local engagement with local authorities about site restoration at NDA sites;
- the need for a clear and widely supported framework for handling new developments, including early engagement with planning authorities and an appropriate approach to community benefits; and
- the need to make effective use of NuLeAF as an existing engagement mechanism at a national level.

It is intended to prepare detailed comments after further discussion with the Environment Agency. It is therefore recommended that the SG agrees the main themes of a response to consultation on the NDA's proposed Strategy and delegates authority to the Chair and Vice Chair to approve the submission of detailed comments

9 Summary of Recommendations

That the Steering Group:

- agrees the main themes of a response to consultation on the NDA's proposed Strategy and delegates authority to the Chair and Vice Chair to approve the submission of detailed comments;
- delegates authority to the Chair and Vice Chair to approve arrangements for encouraging greater engagement between NDA, Site Licensee Companies, regulators and member local authorities on site restoration at NDA sites;
- welcomes in principle the NDA's intention to produce a 'framework for handling new developments' and offers to participate in its development;
- agrees to consider at its next meeting a revised Briefing Paper on the establishment of community funds in association with radioactive waste management developments; and
- agrees to write to NDA to suggest that it consider how to make most effective use of engagement with NuLeAF as an 'existing mechanism' for engaging with local authorities in England and Wales.