

From: Brian Greenwood [<mailto:Brian.Greenwood@osborneclarke.com>]
Sent: 05 March 2015 17:55
To: Port Talbot Power
Cc: O'CONNOR Duncan (Duncan.O'Connor@pinsentmasons.com)
Subject: Tata Steel UK Limited - Port Talbot - Associated British Ports

Dear Tracey,

I attach on behalf of my client Associated British Ports our written representations for Deadline 4.

You will recall that at the hearing on environmental matters, the ExA enquired whether it would be possible, in the light of the figures/statistics that my client provided at the hearing, if these could be confirmed by the Applicant prior to submission of our representations.

I would be grateful if you would indicate to the ExA, that in accordance with his request, we have indeed passed the relevant figures to the Applicant who has confirmed that it is in agreement with the figures cited in para. 2.8 of our representations. In this context, you will see that I am also copying this email, and our representations to Duncan O'Conner at Pinsent Mason, representing the Applicant.

Regards,

Brian

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**Application by Tata Steel UK Limited for the
Port Talbot Steel Works (Power Generation Enhancement Order)**

**Written Summary Representations made at the Issue Specific Hearing held on Wednesday 25
February 2015 by Associated British Ports (ABP) - Reference 10030077**

Deadline 4

1. Summary

- 1.1 At the Issue Specific Hearing held on Wednesday 5 March, Associated British Ports (ABP) confirmed that it does not object to the Applicant's proposed new power station to be constructed at the Tata Steel Works Site located immediately adjacent to the port of Port Talbot (the Port). Indeed, it welcomes and continues to support the increased efficiency that Tata Steel suggests that the development will bring to the Port Talbot Steel Works operation.
- 1.2 That said, as indicated in its written representations dated 15 January 2015, the concerns noted by ABP as being outstanding at the time of that submission, remain outstanding. Those concerns relate to the potential impact of the project on the operational efficiency of the Port's inner harbour (the "Dock"), most particularly in the context of –
- (i) ABP's overriding need to maintain operational water levels within the Dock and;
 - (ii) The quantity of water that the Applicant may wish to extract from the Dock and the Dock Feeder Channel to service the project on a 24 hour/365 day basis.

2. Written Representations – Deadline 1

- 2.1 ABP has noted the Applicant's comments in its written representations submitted for Deadline 1 and the Applicant's response to the Examining Authority's First Round Written Questions. Although the ExA will have noted that there are certain "differences of opinion" as expressed between the Applicant and ABP in terms of Tata's stated water abstraction requirements and the impact that abstraction will have on the operational efficacy of the Dock, ABP is of the view that the ExA will not be assisted by a detailed reiteration of the points that ABP has already made in its original written representations.
- 2.2 Nevertheless, for the record, the ExA should note that:
- a) In para. 7.8 the Applicant refers to additional modelling carried out by ABP as resolving anomalies in the Applicant's modelling of the water balance and prediction of dock water levels. This is not strictly the case. ABP has carried out its modelling purely to show the impounding efforts needed to maintain a constant dock level at times of dry flows in the range of River Afan Q80 to Q95 percentile flows, to assist the Applicant.
 - b) In para. 7.14, the Applicant states that the Dock water is very saline. In most circumstances this is not the case, as salinity is usually quite low but salinity will increase in those periods of prolonged dry weather when impounding from the sea is necessary to conserve dock water level to enable full dock operation.
- 2.3 Regardless of the above, as noted below and as confirmed at the Issue Specific Hearing on 25 February by both ABP's representative and the Applicant's representative, both parties remain in dialogue with regard to securing a satisfactory resolution of ABP's concerns through

the means of protective provisions that will enable both the project and port operations to co-exist.

- 2.4 In this context, at the Issue Specific Hearing, ABP summarised the position with regard to the minimum water level that it requires within the Dock if it is to maintain the Dock's operational integrity. At the same time, ABP explained how the need to protect these minimum operational water levels could potentially impact on the requirements of the Applicant in terms of its wish to extract water from both the Feeder Channel and the Dock for its current steel works operations and in due course, if permitted, the new power station project.
- 2.5 This information, which was provided by Mr Robert Slorach of ABP was as follows -
- 2.6 When allowing vessels to navigate into, out of and within the impounded Dock, ABP operates a system of acceptance criteria to safeguard such navigation, with reference, amongst other parameters, to a vessel's Under Keel Clearance (UKC). This is clearly related to available water level within the Dock and may be illustrated by an example.
- 2.7 The advertised maximum acceptance dimensions for a vessel using Port Talbot Dock are: Length 130m, Beam 17.7m and draft 7.7m. This would relate to a vessel of 8-10,000t deadweight. With a UKC of 0.9 to 1.1m (depending on conditions) this vessel would require a water depth within the Dock of 8.6 to 8.8m, or a surface water level of between +5.55m & +5.75m AOD (Above Ordnance Level). Similarly for a vessel drawing only 6.7m (of about 3000t deadweight), the corresponding water depths and surface water levels would be about 1 metre less. Water depths are read from a fixed staff that shows the depth over the highest point on the cill of the inner lock gates.
- 2.8 The above levels compare with surface water levels of +4.95m AOD for Tata Steel's Amber warning level for their dock water intake operation and +4.45m AOD for their Safety Critical Level.
- 2.9 A very simple spreadsheet model is being finalised with Tata Steel which illustrates the situation in occasional prolonged dry weather periods, when all parties agree there may not be sufficient water available from the River Afan to cater for all demands. This simple model illustrates the shortfall in quantities of water per day that will then need to be replaced by impounding seawater to maintain the Dock water level to permit full dock operations. In these occasional periods, the impounded seawater will cause a temporary increase in salinity.
- 2.10 In the light of the above, and the discussions that have been continuing for some time, the Applicant forwarded to ABP on 19 February a draft protective provision, which for the ExA's assistance, is set out in the Appendix to these written representations.
- 2.11 In brief, the ExA will note that the draft provided by the Applicant is designed to limit its water abstraction from the Feeder Channel and the Dock to the maximum licenced limits permitted by NRW.
- 2.12 As ABP explained at the Issue Specific Hearing, however, at certain times of the year, abstraction of water from the Feeder Channel and/or the Dock to the maximum permitted by NRW in the issued licences will in fact create serious practical operational difficulties for ABP in terms of vessel movements both within and into and out of the Dock.
- 2.13 Whilst it is accepted that these difficulties are only likely to arise during the Spring/Summer months (essentially between the months of May and September – subject to the unexpected) those practical operational difficulties, when they do arise are very real. Indeed Mr Slorach on behalf of ABP did explain to the ExA at the examination that during last summer Dock water level dropped to below 4.4m AOD and a vessel wishing to load at the Civil & Marine berth with a draft of only 6.7m would have been unable to safely load its cargo and sail. In the event, fortuitously, a spring tide arrived and refilled the dock and the ship was able to enter the dock safely, but this could not be relied on for general operations, more particularly as marine operations are very costly to delay and have to run to schedule.
- 2.14 In the context of the above, therefore, it follows logically that ABP cannot accept protective provisions designed primarily to protect the water abstraction requirements of the Applicant regardless of the clear operational needs of ABP as the statutory operator of the port of Port

Talbot. To do so, would be to sanction water abstraction levels that would clearly damage the operational integrity of the Dock.

- 2.15 Indeed ABP notes that this operational concern has in fact been recognised by NRW who, in their written representations dated 15 January 2015, in answer to the ExA's First Round questions, at para 5.40 confirm and accept that, in the context of the Applicant's water modelling –

"The recent modelling has, however, shown that there may be some changes to the Dock water levels caused by changes to how water is managed within the system. This is a consideration for ABP in the event that it may affect their current operations."

3. **ABP's proposed Protective Provision**

- 3.1 In the light of the above, ABP responded to the Applicant's proposed protective provision with a revised draft (sent on 23 February 2015). The explanation accompanying the draft pointed out that:-

- (i) ABP was content to rely on the NRW permitted abstraction levels from the Nant Ffrwdwyllt;
- (ii) The permitted extraction levels in the proposed protective provision from the Dock itself are based on the amount of water that is "lost" in the Tata Steel process. In other words, the Applicant extracts a certain amount of water each day and returns a lesser amount each day – the amount of water "lost" ie "consumed" must not exceed the amount identified in the protected provision; and
- (iii) As far as the Dock Feeder Channel is concerned, the figure cited in the protective provision is less than the NRW permitted level but reflects the limit formally agreed between ABP and the Applicant in the extant legal agreement.

- 3.2 In the context of the above, it was also pointed by ABP that the protective provision did in any case allow for the scenario whereby the Applicant could extract levels over and above those agreed with ABP – but only with the prior agreement of ABP.

- 3.3 Since that version was sent, and following the recent examination, ABP has suggested a slight amendment to its first version of the protective provision and for the ExA's information, the latest version of that provision as proposed by ABP is set out below:-

For the protection of Associated British Ports

1.—(1) In this Part of this Schedule—

"AB Ports" means Associated British Ports in its capacity as the owner, operator and harbour authority for the Port of Port Talbot;

"Satisfactory Water Level" means the level of water within the Dock which ABP at its absolute discretion requires in order to maintain its operations and activities within the Dock

"the Dock" means the main inner dock at the Port of Port Talbot;

"the existing abstraction licence" means the abstraction licence issued under the Water Resources Act 1991 with the reference number 21/58/61/0024 - Nant Ffrwdwyllt;

"the primary source" means the River Afan (Dock feeder channel); and

"the secondary sources" means the Nant Ffrwdwyllt and the Dock.

(2) The provisions of this Part of this Schedule have effect for the protection of AB Ports unless otherwise agreed in writing between the undertaker and AB Ports.

2.— (1) *In exercising the powers conferred by this Order to construct, operate and maintain the authorised development the undertaker must not abstract volumes of water from the primary or secondary sources that would result in water levels in the dock falling below the level which is required for the safe and efficient operation of the dock.*

(2) *The undertaker must not abstract water from the primary or the secondary sources for the purpose of the authorised development at a rate which combined with abstraction of water from those sources for any other purpose exceeds the following levels:*

- (a) *River Afan (Dock feeder channel) - 27.4 Megalitres per day;*
- (b) *the Dock - 54.8 Megalitres per day as a net consumption;*
- (c) *Nant Ffrwdwyllt: the maximum volume of water that is permitted to be extracted as set out in the existing abstraction licence;*

without the consent of AB Ports.

(3) *The consent of AB Ports is not to be unreasonably withheld having regard to the need to maintain a Satisfactory Water Level in the Dock but may be given subject to reasonable conditions for this purpose.*

3. *The undertaker must, on a monthly basis from commencement of operation, provide to AB Ports detailed records of the levels of water abstracted from the River Afan (dock feeder channel) or the dock for the purpose of the authorised development and the Port Talbot Steelworks identifying the time, point and levels of water abstracted.*

- 3.4 As confirmed at the Issue Specific Hearing, ABP and the Applicant are continuing to discuss the wording of a protected provision with a view to achieving a position that will be mutually satisfactory to both parties.

4. **Use of the Dock**

- 4.1 At the site inspection, the ExA asked ABP to provide information as to existing and proposed use of the port of Port Talbot, with particular reference to the Dock.

- 4.2 At the Issue Specific Hearing Mr Slorach provided the information requested and which is set out below.

4.3 **Outer Harbour**

10 million tonnes, of mainly imports, per year – in around 120 No. ships ranging in size from:-

- Capesize bulk carriers - 170,000t dwt (200,000t displ) for coke coal, iron ore (pellets and fines) - typical dims 300m long x 17m draft x 45m beam through:
- Panamax bulk carriers - 50,000t dwt - typical dimensions 220m long x 13m draft x 32m beam for coke/ coal, to:
- Handy-Max bulk carriers – approx. 40,000t dwt - typical dimensions 200m long. 30.0m beam and 11.0m draft Note; in 2014 two export shipments of steel slab of 30,000t + 40,000t respectively were ferried by coasters from the impounded Dock to the North side of the main jetty in the Outer Tidal Harbour and transferred to Handymax ships for deep sea delivery.

4.4 **Inner Harbour (Impounded Dock)**

IN 2014:– exactly 200 ships visited - generally Coasters typical average dwt 3000 t mostly for export, but with some imports too

- Exports:- Aggregates; Bottom Ash Granular Slag - using lock for loading; steel slab (70,000t in 2014 as above) and Cement;
- Imports:- Sand (to Talbot Wharf) and Project cargoes (unloaded in lock)

4.5 **FUTURE 2015 onwards:**- trade as above but vessel calls are expected to increase to around 500 per annum and will include vessels up to 10,000t dwt with typical draft of 7.7metres.

Associated British Ports

5 March 2015

Appendix

For the protection of Associated British Ports

1.(1) - In this Part of this Schedule-

"AB Ports" means Associated British Ports in its capacity as the owner, operator and harbour authority for the Port of Port Talbot;

"the dock" means the main inner dock at the Port;

"the existing abstraction licences" means the abstraction licences issued under the Water Resources Act 1991 with the following reference numbers-

21/58/61/0012 – Port Talbot dock;

21/58/61/0009 – dock feeder channel; and

21/58/61/0024 - Nant Ffrwdwyllt,

"the primary source" means the River Afan (dock feeder channel); and

"the secondary sources" means the Nant Ffrwdwyllt and the dock.

(2) The provisions of this Part of this Schedule have effect for the protection of AB Ports unless otherwise agreed in writing between the undertaker and AB Ports.

2.(1) In exercising the powers conferred by this Order to construct, operate and maintain the authorised development the undertaker must not abstract volumes of water from the primary or secondary sources that would result in water levels in the dock falling below the level which is required for the safe and efficient operation of the dock.

(2) The undertaker must not abstract water from the primary or the secondary sources which exceeds the maximum volume of water that is permitted to be extracted from each of those sources as set out in the existing abstraction licences.