

From: Brian Greenwood [<mailto:Brian.Greenwood@osborneclarke.com>]
Sent: 15 January 2015 17:51
To: Port Talbot Power
Subject: EN010062: Tata Steel DCO - Written representation of Associated British Ports (10030077)

Dear Ms Williams,

On behalf of my client Associated British Ports, I now attach the following –

- 1 ABP's Written Representations for Deadline 1;
- 2 A plan of the Port of Port Talbot to be attached to the above Written Representations; and
- 3 ABP's answer to the ExA's First Written Questions as addressed to ABP.

In addition, I would offer the following comments –

4 **Site meeting** – the ExA may consider it appropriate, when undertaking his site visit, if he included a visit to the Port Talbot Dock with a view to inspecting the various abstraction points currently used by the Applicant. Certainly ABP think this may be of assistance. If that is the case, then my client would be happy to assist with arrangements and could I suggest that you use as your ABP contact for this Mr Byron Lewis – his email address being - blewis@abports.co.uk.

5 **Hearings** – ABP would wish to attend those hearing that are likely to relate specifically to the Port and in particular, those hearings at which the issue of water abstraction and discharge from the Port and the Port Feeder is likely to be considered. On the basis of the current published programme, it would seem that the most likely day for this aspect of the project to be discussed appears to be Wednesday 25 February. If, however, the ExA is of the view that there are other hearing at which ABP's assistance may be required, I would be grateful if you could let me know and we will certainly be happy to attend. Incidentally, in this context, I see that the ExA has also reserved the following day (Thursday 26 February) for the hearing on environmental matters – could I draw attention to the fact that attendance on this day may be difficult for ABP and we would hope, if convenient for the ExA, that those matters that relate to ABP can be taken on the Wednesday. We also hope that any issues ABP may have in relation to the draft DCO can be resolved before the Issue Specific Hearing, but nevertheless we should perhaps register our possible attendance.

I trust the above assists,

Regards,

Brian

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Head of Planning and Environment

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**Application by Tata Steel UK Limited for the
Port Talbot Steelworks (Power generation Enhancement) Order
Written Representations of Associated British Ports (ABP) – Ref 10030077
(Deadline 1)**

1. Summary

- 1.1 Associated British Ports ("ABP") does not object to Tata Steel's proposed new power station. Indeed, it welcomes and supports the increased efficiency that the Applicant indicates that the development will bring to the Port Talbot Steel Works operation.
- 1.2 That said, ABP does have a number of concerns as to the potential impact of the project on the operational efficiency of the Port of Port Talbot (the "Port"), most particularly in the context of –
- (i) ABP's water supply needs required to feed and maintain water levels within the Dock and;
 - (ii) the quantity and quality of water extraction that may be required by the Applicant to service the project on a 24 hour/365 day basis.
- 1.3 Some of ABP's concerns should be capable of resolution by private negotiation outside the examination. Nevertheless, insofar as such issues may have a bearing on the project, ABP will assist the examination by providing all relevant information concerning the project's potential impact on the operations of the Port and inevitably, that process of itself may have a material role in the consideration of the project going forward.

2. Associated British Ports

- 2.1 ABP is a statutory body incorporated under the Transport Act 1981. It is the largest Ports Group in the UK, being the owner and operator of 21 ports together with other transport-related businesses.
- 2.2 As such, ABP is the owner and operator of the Port, authorised under private Acts of Parliament. ABP is also the statutory Harbour Authority for the Port. This representation is accordingly submitted by ABP as both the statutory undertaker owner and operator of the Port and as the statutory Harbour Authority.

3. The Port of Port Talbot – Trade, Function and Importance

- 3.1 The Port lies on the River Afan estuary. The Tata Steel works are immediately adjacent to the east of the Dock, and the town of Port Talbot surrounds the Port to the west and north. Located within easy reach of the open sea, the Port has direct mainline rail access and the new Harbour Way distributor road adjacent to the Port provides a direct connection to the M4.
- 3.2 There has been a port at the mouth of the River Afan since the 17th century. The construction of the main inner dock (the "Dock"), however, was completed by the Port Talbot Dock Company in 1837 and historically, was one of the first major docks to be built in South Wales.

- 3.3 A plan of the Port today is attached as Annex 1 to these representations. In brief, however, the Port comprises an "outer" Tidal Harbour (the "Tidal Harbour") able to handle large cape-sized vessels of up to 170,000 dwt and the Dock, as noted above, which accommodates smaller heavy-lift, project and general cargo vessels.
- 3.4 The Dock is an impounded body of water which is held by the Dock's lock gates and maintained at a "normal" level significantly higher than the highest astronomical tide height in order to ensure satisfactory operational water levels. As a consequence, internal water levels are maintained primarily via a feeder from the River Afan which originally flowed through where today's Dock is located but which was diverted in the 1830s to enable the construction of the harbour infrastructure. It should be noted that during dry periods, the Dock water level has historically had to be supplemented by the use of impounding pumps.
- 3.5 The Tidal Harbour was constructed in the 1970's providing one of the UK's deepest berths. Today it is one of only four deep-water harbour facilities in the UK capable of handling fully loaded cape-sized vessels. It is primarily used by Tata Steel for the import of coking coal, minerals and iron ore.
- 3.6 The Tidal Harbour is, therefore, an extremely important facility in terms of the local, regional and national economy, offering as it does a base for future offshore operations in the exploration and renewable sectors as well as servicing the Tata Steel Works.

4. **The Port - operations**

- 4.1 In terms of the Applicant's Power Station proposals, it is the potential impact on the Port's impounded Dock that is most relevant for this examination.
- 4.2 As noted above, the Dock was constructed in the 1830s. It comprises an area of some 490,000 square metres and can accommodate vessels up to 130 m in length, 18 m beam and 7.7m draft. The Dock was originally constructed to service the coal and mineral trades and by the 1960s was supporting 3,000,000 tonnes per year of iron ore import for the steel works.
- 4.3 Over the years, the Dock has seen the migration of import traffic for the steel works to the purpose built Tidal Harbour followed by a period of closure to traffic and then its reopening to accommodate and service a diverse range of commercial customers.
- 4.4 Today, the Dock supports a variety of import and export cargoes including minerals, aggregates, project cargoes and steel products.
- 4.5 As far as the Tidal Harbour is concerned, this today primarily serves the import requirements for the Applicant's steel works.
- 4.6 Of particular relevance in the context of this application is the fact that ABP is currently investing more than £1 million in new outer lock gates at the Port which should be in place by the end of January 2015 and which will greatly aid the conservation and management of water within the Dock.
- 4.7 The Ex.A should note that ABP's impounded Dock is key to ABP's business strategy in South Wales and on-going projects and future business are together expected to lead to an increase in annual vessel calls to around 500.

5. **The Tata Steel proposed power station**

- 5.1 As noted above, ABP does not object to the principle of the construction of a new power station designed to service the Tata steel works. That said, however, ABP does object to any proposal which would or which could have the potential to impact upon the current or future operations of the Port – thus the position it has been bound to adopt at the commencement of this NSIP process.
- 5.2 In Document 5.04 of the Applicant's Environmental Statement (ES) - **Details of Other Consents and Licences** - the Applicant indicates at section 11- "Permit to pump" that "Applications will be made as required by the MWC."

- 5.3 At section 12 of the same document headed – **Licence to Abstract Water and Consent to Discharge** under the Water Resources Act 1981, the Applicant indicates that – “No new applications will be needed as the abstractions and discharges required for the proposed development will be within the allowances of the Applicant’s existing abstraction licences and discharge consents.”
- 5.4 As noted by the Applicant in its ES, Chapter 14 at para 14.3.7, Table 14 sets out the abstraction and discharge requirements of the project during construction and operation. The Table is perhaps, however, a little disingenuous in that it indicates that for the power station project itself, abstraction will only be required from the River Afan (Port Talbot Dock Feeder Channel) and it is only in the note to the Table that reference is made to the fact that – “abstraction and discharge from/to the Port Talbot Dock for existing assets and other site processes will be undertaken in a continuous operation” continuing that “these volumes will be reduced once the complete installation of the proposed development is fully operational, when the existing assets are to be decommissioned.”
- 5.5 The Applicant acknowledges at para 14.3.2 of the ES that - “there will be a requirement for additional abstraction from the River Afan and amended discharge to the Port Talbot Dock as part of the proposed development.”
- 5.6 The calculations made in relation to the increased abstractions for the River Afan are, according to the Applicant, based on the water balance model provided by NRW. This model has also, apparently, been used to “inform the assessment of potential effects on the River Afan flows and the Port Talbot Dock levels from the amended abstraction and discharge regime.” (para 14.3.21).
- 5.7 At para 14.3.23, however, the Applicant concedes that the water balance modelling did in fact produce “anomalous results” as a consequence of which the potential effect of the proposed new abstraction regime on both the River Afan feeder and the Dock’s water levels has had to be based on a number of assumptions. This of itself is of some concern to ABP as the operator and owner of the Port.
- 5.8 At meetings which apparently took place between NRW and the Applicant, without ABP, a hierarchy of water abstraction was originally proposed that comprised - “the River Afan, then the Nant Ffrwdwyllt, followed by the Port Talbot Dock as there is sufficient spare capacity (head room) within the current abstractions licences for these water sources.” (para. 14.4.10)
- 5.9 That paragraph continues by explaining that this hierarchy was agreed because it would show – “that the proposed development will not cause extra strain on the river system by not affecting the water level and therefore salmon migration in the River Afan. This would be achieved as back up water from the Nant Ffrwdwyllt and Port Talbot Dock and can be abstracted during times of low flow/no flow conditions in the River Afan during the spring and summer months”.
- 5.10 Although not a party to the original discussions between the Applicant and NRW in relation to the proposed abstraction regime from both River Afan feeder and the Dock, ABP is a member of the River Afan Management Group and ABP’s concerns with regard to the Applicant’s proposals are recorded by the Applicant in paras. 14.4.14 to 14.4.17 of the ES. Indeed, these discussions are still continuing as noted by the Applicant in para 14.4.24 where the Applicant indicates that it seeks to –“consult with ABP as the DCO progresses and will seek to resolve any additional queries on the water balance model.”

6. Existing Conditions

- 6.1 Section 14.5 of the Applicant’s ES provides a summary of the existing conditions in terms of water requirements and current water abstraction levels generally.
- 6.2 **River Afan and the Dock Feeder Channel** - Reference is made to the River Afan, Greenpark Weir and the new three tier Larnier fish pass on the river constructed just downstream of the Dock feeder channel off-take. (para. 14.5.2). That paragraph states that the feeder -“is via a culvert on the left bank lying immediately upstream of the weir, and is the main water supply to

the Port Talbot Dock. It allows for the operation of the dock and provides the water for the licenced Tata Steel abstractions, both from the dock feeder channel and from the dock itself". The paragraph concludes by acknowledging that the Port Talbot Steelworks site "is reliant on the water entering the dock from the Afan and maintaining this supply."

- 6.3 **Nant Ffrwdwyllt** - Para 14.5.3 of the ES refers to the Nant Ffrwdwyllt which lies 100m northeast of the Applicant's development site and which was originally a tributary of the River Afan. This today comprises "*an open channel below the highest dock water level. As a result the watercourse will generally remain partially full. This watercourse provides a supply for an additional abstraction by the Applicant.*"
- 6.4 **The Dock** - as noted above, the Dock is an impounded body of water and water levels are primarily controlled/maintained by the Port's lock gates. The Applicant currently abstracts water from the Dock and discharges back to the Dock (para 14.5.4 to 14.5.5).

7. Abstraction Licences

- 7.1 Details of the current water abstraction licences as relevant to the Dock are provided in para. 14.5.24 *et seq* and Table 14.6 of the ES. Whilst ABP does not take issue with the factual information provided by the Applicant as to the existing permitted abstraction and discharge points in relation to the River Afan feeder, Nant Ffrwdwyllt and the Dock – that information is a little disingenuous in that it does not, in ABP's view, provide a complete picture – as is discussed below.
- 7.2 At para. 14.5.28 the Applicant suggests that the licences that it currently enjoys from NRW for the abstraction of water - "*have the ability to abstract the whole flow of the river Afan at times of low and medium flow.*" Whilst the statement is theoretically correct – it is not in fact the case in reality in the light of ABP's primary and overriding need to ensure sufficiency of feeder water into the Dock of Port Talbot.
- 7.3 At para. 14.5.29 the Applicant refers to the rationale for the creation of the Afan Water Management Group and its principal objectives, namely improving fish passage, encouraging water efficiency, considering alternative sources of supply and improving water management.
- 7.4 The historical pumping rates for the Tata Steel abstractions over a one year period between April 2011 to March 2012 are set out in para. 14.5.3 as follows -
- The River Afan: 10,000,000 m³/yr;
 - Nat Ffrwdwyllt: 900,000 m³/yr;
 - Port Talbot Dock: 166,000,000 m³/yr.
- 7.5 The Applicant points out in the ES (cf Table 14.6) that these abstraction rates fall within the current abstractions rates permitted by NRW, namely –
- The River Afan: 14,933,610 m³/yr;
 - Nant Ffrwdwyllt: 22,730,000 m³/yr;
 - Port Talbot Dock: 206,343,000 m³/yr.
- 7.6 Reference is made at para. 14.7.18 that, in terms of the River Afan – "*this abstraction volume will be an additional abstraction requirement from the River Afan on top of the current average Port Talbot Site Extraction rate at 10,000,000 m³/yr (based on April 2011 – March 2012 abstraction data – Appendix 14.8, table 14.8.1). However, the additional abstraction required for the proposed new boilers will be negated by the decommissioning of the four old boilers, making the total additional abstraction requirement for the proposed development during operation approximately 600 m³/hr (5,000,000 m³/yr). This gives an overall abstraction requirement of approximately 15,000,000 m³/yr. **This is above the current abstraction licence for the River Afan (14,933,610 m³/yr, however, it is unlikely that in reality the additional abstraction required will exceed the current licence limit as the volumes outlined above have been estimated and rounded to provide an upper limit of abstraction.**" (Emphasis added)*

- 7.7 In terms of the Applicant's Option 1 Development Scenario, at para. 14.7.21 there is also a suggestion that water abstraction from the Dock will decrease as a result of the decommissioning of the three existing TA's leading, as stated at para. 14.7.22 to an alleged net reduction in abstraction from the Dock of 146,000,000 m³/yr. The amount that is to be returned to the Dock, however, is also predicted to reduce and the net effect of this will be that the net consumption of water taken from the Dock will not in fact change.
- 7.8 At the same time, however, there will be an increase in consumptive abstraction from the River Afan Dock feeder channel of 5,000,000 m³/yr which the Applicant accepts will - *"decrease the amount of water reaching the dock from the feeder channel."* (Para. 14.7.23). and that overall, this is likely to lead to a decrease in water levels within the Dock (para. 14.7.24).
- 7.9 This, together with the anomalous results obtained in the modelling, has led the Applicant to draw the conclusion that it is - *"logical to expect that the improvement works will maintain the level in the dock above the level established for the worst case scenario and the dock level will not decrease with the improvement works in place (even with the net changes to consumptive abstraction from the River - Dock system) as the refurbishment of the locked gates would mean that much less water would be lost through gate leakage than is lost at present. Therefore, it has been assumed that for the best case scenarios no adverse effects on dock level will occur as a result of the proposed development beyond that established in the worst case scenario."* (para. 14.7.26).
- 7.10 In terms of the Option 2 Development Scenario, the impact is considered likely to be similar to the figures concluded for Option 1 (para. 14.7.46) - and ABP's concerns consequently remain.
- 7.11 The current overall position with regard to abstraction impact is summarised at paras. 14.8.9 to 14.8.14 of the Applicant's ES. Of significance, and of some potential concern to ABP, is the fact that -
- (i) The impacts of the additional abstraction will allegedly be mitigated by adherence to the hierarchy of abstraction that has been agreed in principle between NRW and the Applicant - albeit not by ABP;
 - (ii) Under the Hierarchy, the River Afan feeder will be the primary abstraction source;
 - (iii) The secondary abstraction source will be the Port Talbot Dock followed by the Nant Ffrwdwyllt although:-
 - (iv) The Port Talbot Dock has a significantly worse water quality than the Nant Ffrwdwyllt - to be overcome through on-site water treatment and by the installation by Tata of extra equipment to enable greater capacity for water treatment (paras. 14.8.9/10). Clearly, however, there will be a limit to the ability of the Dock to act as a reservoir in this way in dry periods, since the maintenance of Dock water levels depends on replenishment from the River Afan via the Dock Feeder.
- 7.12 ABP is somewhat concerned to note that, as stated in para 14.8.11 of the ES, NRW have - *"agreed to monitor the River Afan flows at the Marcroft gauging station, which is situated upstream of the applicant's abstraction, and issue an operating advisory note to the Applicant when both flows are not expected to meet the additional abstraction requirements. This will be in force so that the Applicant can switch the additional abstraction requirement to the secondary back up sources, whilst continuing to abstract from the River Afan at a lower rate."*
- 7.13 The ES continues that due - *"to unknown variables at this stage a commitment has been made between NRW and the applicant to agree a trigger mechanism and points of contact for this monitoring and hierarchy system. The agreement of which will be a Requirement of the DCO."* (para. 18.8.12).
- 7.14 In all of the above it is notable that no reference is made to ABP as the owner and operator of the Port.

8. ABP – abstraction agreements

- 8.1 Of equal significance, however, is the fact that the Applicant's ES is silent as to the fact that these water abstraction figures are in fact also subject to entirely separate legal agreements entered into by Tata Steel with ABP.
- 8.2 ABP does not intend in these representations to detail the specific legal arrangements in relation to water abstraction currently extant between the Applicant and ABP as the owner and operator of the Port in that it is not considered that such details are directly relevant to the examination. In considering this application, however, the Ex.A should be aware of the following:
- (i) There is in existence a legal agreement authorising the Applicant to extract water from the Dock – subject to specific levels of abstraction and this agreement is time limited;
 - (ii) The pumping facility operated by the Applicant to extract water from the River Afan feeder channel is constructed on land owned by ABP, the lease for which expires this year and, as with the Dock, express limits are imposed on the amount of water that can be abstracted from the feeder channel.

9. Conclusions

- 9.1 The Ex.A will appreciate that it is essential that ABP has the ability to control water abstraction from the Dock, and indeed, the River Afan Channel which feeds the Dock if it is to maintain satisfactory operational water levels within the Dock at all times.
- 9.2 These permitted levels of abstraction are in addition to those permitted by NRW in their Licences as noted above.
- 9.3 The Applicant will presumably at some time in the near future wish to open negotiations with ABP with a view to ensuring that the existing agreements can be renewed so that water supply can be guaranteed.
- 9.4 ABP sees no reason why such negotiations should not be completed satisfactorily but such negotiations will always be subject to the need for ABP to protect and maintain the operational integrity of the Dock.
- 9.5 On the basis of the above, ABP is concerned to note, as stated in para. 14.8.9 of the ES, that NRW and the Applicant are contemplating a process whereby the Applicant can switch from its primary source of water abstraction, namely the River Afan feeder channel, to its secondary source, namely the Port Talbot Dock, without currently any reference being made to ABP, the owner and operator of the Dock.
- 9.6 **Requirement** – If, as is suggested in para. 14.8.12 of the ES, this arrangement is to be made the subject of a Requirement attached to the DCO, then ABP would also wish to be consulted as and when abstraction rates are to be changed in that such change will inevitably have an effect - potentially a detrimental effect - on water levels within the Dock. Indeed, ABP would also want to be provided with advance notice of any likely change in the water abstraction hierarchy.
- 9.7 **Protective Provision** – In addition, in view of the importance of the need to maintain water levels within the Dock, ABP proposes to raise with the Applicant the question as to whether it would be appropriate to include a Protective Provision in the DCO whereby the Applicant will be required to obtain ABP's consent if it wishes to abstract water from either the feeder channel or the Dock at rates above those currently agreed with the Applicant – regardless of any licences granted by NRW.
- 9.8 Allied to this concern, will be an additional request that the Applicant agrees a Protective Provision/Requirement whereby detailed abstraction records should be provided to ABP on a monthly basis, recording the levels of water taken, from what point and when.

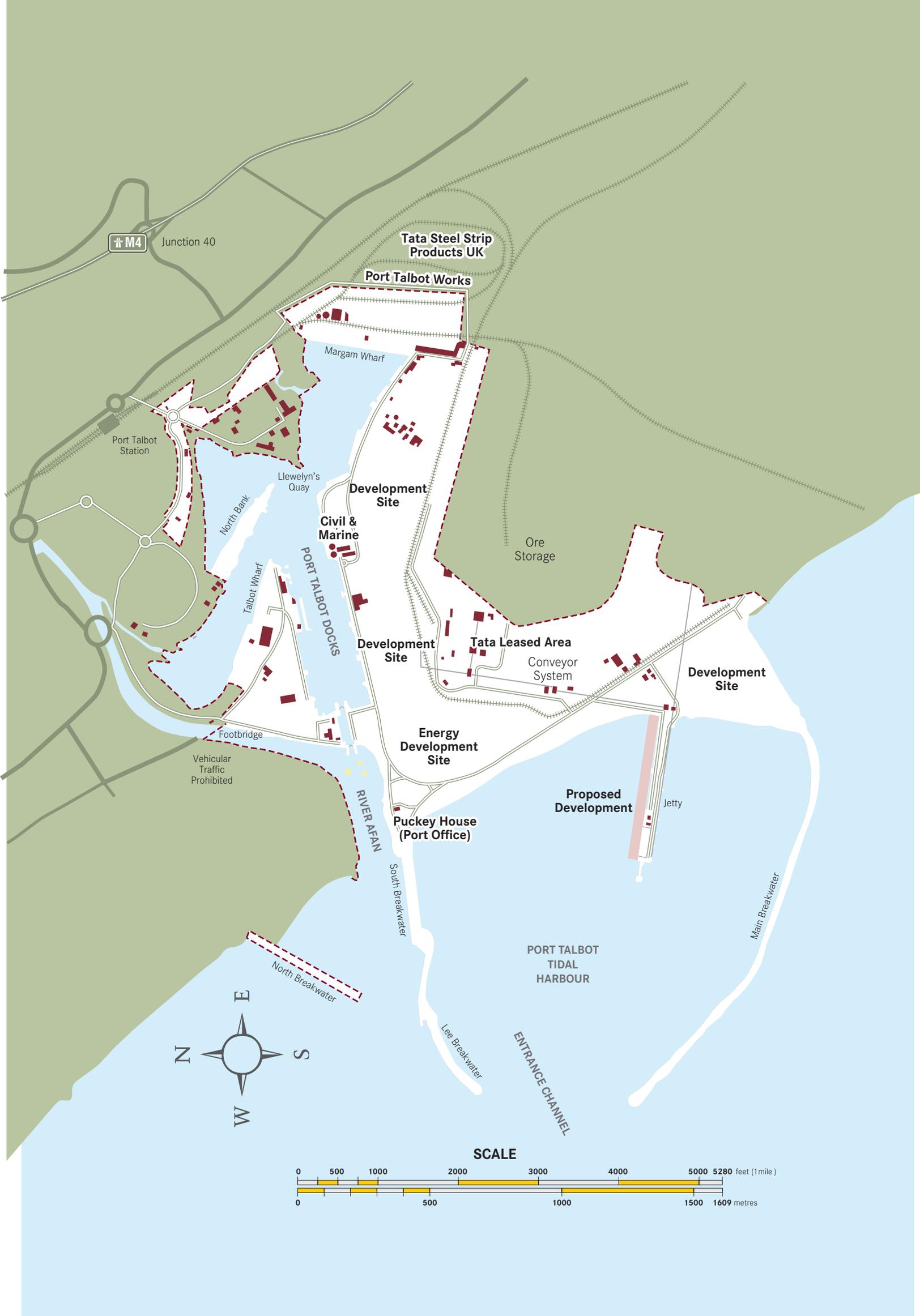
9.9 Discussions with regard to the above are either on-going or about to commence and the ExA will be kept informed as to progress accordingly.

Annex 1 - Plan of the Port of Port Talbot

Osborne Clarke, on behalf of –

Associated British Ports

15 January 2015



M4

Junction 40

Tata Steel Strip Products UK

Port Talbot Works

Margam Wharf

Port Talbot Station

Llewelyn's Quay

Development Site

North Bank

Civil & Marine

Ore Storage

PORT TALBOT DOCKS

Talbot Wharf

Development Site

Tata Leased Area

Conveyor System

Development Site

Vehicular Traffic Prohibited

Footbridge

Energy Development Site

Proposed Development

Jetty

Puckey House (Port Office)

RIVER AFAN

South Breakwater

Main Breakwater

North Breakwater

PORT TALBOT TIDAL HARBOUR

Lee Breakwater

ENTRANCE CHANNEL



SCALE

