

Date: 23 October 2024
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Jonathan Moody
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By Email to: [REDACTED]

Dear Mr. Moody,

Section 14, Section 17 and Part 1 of Schedule 3 to the Harbours Act 1964 (as amended)
("the 1964 Act")
Notice of intention to submit an application for the proposed "The Port Talbot Harbour
(Future Port Talbot) Harbour Revision Order [20]" ("HRO")**

1 Introduction

- 1.1 We advise Associated British Ports ("**ABP**") in respect of the proposed HRO detailed above and other related planning and marine consents required in respect of their Future Port Talbot project, further details of which are set out below.
- 1.2 ABP is the Statutory Harbour Authority ("**SHA**") for the Inner Harbour and Tidal (or Outer) Harbour at Port Talbot ("**Port Talbot Harbour**"). The limits of the SHA area below the mean high water mark are shown on the Plan included at Appendix 1 to this letter.
- 1.3 In its role as SHA, ABP intends to bring forward a transformative programme of works at Port Talbot, known as "Future Port Talbot" ("**FPT**" or the "**FPT programme**"). The FPT programme will support the diversification of the existing port and associated infrastructure at Port Talbot, capitalise on emerging offshore wind energy and green industry opportunities in order to enable Wales to meet its renewable energy and carbon reduction targets and deliver positive local, regional and national socio-economic benefits.
- 1.4 The emerging proposals for FPT will involve works and development within both the marine and terrestrial environments at Port Talbot. Appendix 2 shows the red line boundary for the location of the FPT programme at Port Talbot Harbour which will be utilised in the FPT Environmental Impact Assessment ("**EIA**") Scoping Report that is currently being prepared (see further paragraph 6 below). The FPT proposals will include the undertaking of works by ABP, as SHA, to repair, improve, maintain and manage Port Talbot Harbour, including the parts of the Harbour falling within the marine and terrestrial environment. The proposed works will interfere with existing public rights of navigation. Ongoing design development of the FPT proposals will help determine the exact scope of the marine and terrestrial works to be carried out within Port Talbot Harbour.
- 1.5 The elements of the works to be carried out in the marine environment in Port Talbot Harbour, including those that will interfere with public rights of navigation, will need to be authorised by way of a Harbour Revision Order ("**HRO**"), pursuant to sections 14 and 17 and

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Part 1 of Schedule 3 to the 1964 Act. ABP will submit the application for the HRO to the Welsh Ministers in its capacity as SHA for Port Talbot Harbour ("**the HRO Application**"). It is anticipated that the HRO will be titled "*The Port Talbot Harbour (Future Port Talbot Harbour Revision Order [20**])*" (as per the heading to this letter).

1.6 In parallel to the HRO Application, there will also be a requirement for the grant of:

- (a) planning permission(s) from Neath Port Talbot Borough Council ("**NPTBC**") in respect of works to be undertaken as part of the FPT programme above the mean low water mark; and
- (b) a marine licence from Natural Resources Wales ("**NRW**") in respect of works to be undertaken as part of the FPT programme below the mean high water mark.

1.7 A number of secondary consents, such as protected species licences and for work to highways including creation of new highway and the upgrade of port access arrangements, will also be required.

2 **Purpose of this Letter**

2.1 The purpose of this letter is to:

- (a) provide the Welsh Ministers with formal notice of ABP's intention to submit the HRO Application (paragraph 3 below);
- (b) notify the Welsh Ministers of ABP's position as regard the EIA screening in respect of the HRO Application (paragraph 4 below);
- (c) to formally request that the Welsh Ministers defer responsibility for undertaking the EIA in respect of the HRO Application to NRW (paragraph 5 below);
- (d) to outline the proposed arrangements in respect of the EIA Scoping Report in respect of the HRO Application (paragraph 6 below); and
- (e) to request that the Welsh Ministers expedite consideration of the matters set out in this letter, as well as determination of the HRO Application itself (paragraph 7 below).

3 **Notice of intention to submit the HRO Application**

3.1 Part 1 of Schedule 3 to the 1964 Act prescribes the pre-application, application and determination procedure in respect of an application for a Harbour Revision Order under Section 14 of that Act. The pre-application procedure is set out in paragraphs 3 to 6 (inclusive) of Part 1 of Schedule 3 of the 1964 Act.

3.2 Paragraph 3(1) of Part 1 of Schedule 3 to the 1964 Act prohibits the submission of a HRO application until a proposed applicant has provided the Welsh Ministers with notice of its intention to make such an application and the Welsh Ministers have confirmed whether or not the proposed application relates to a project for which an EIA is required (please see further paragraph 4 below).

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3.3 Please accept this letter as formal written notice by ABP, as SHA for Port Talbot Harbour, to the Welsh Ministers, pursuant to paragraph 3(1)(a) of Part 1 of Schedule 3 to the 1964 Act, of ABP's intention to submit the HRO Application in relation to the works proposed to be undertaken to, and maintained in, Port Talbot Harbour as part of the FPT programme, further to and in accordance with section 14(2)(a), section 17 and Part 1 of Schedule 3 of the 1964 Act.

3.4 Further to section 14(2)(b) of the 1964 Act, ABP considers that the works comprised within the HRO Application will secure the repair, improvement, maintenance and management of Port Talbot Harbour in an efficient and economical manner and also facilitate the efficient and economic transport of goods by sea.

3.5 ABP anticipates that the HRO Application will be submitted to the Welsh Ministers in Autumn 2025 and will keep the Welsh Ministers fully informed of the anticipated application date.

4 **EIA screening in respect of the HRO Application**

4.1 **Context**

4.1.1 When notifying the Welsh Ministers of a proposed application for a HRO for a project which is likely to fall within Annex I or II to 'Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment' (the "**EIA Directive**"), paragraph 3(2) of Part 1 of Schedule 3 to the 1964 Act states that the proposed applicant:

- (a) must provide to the Welsh Ministers the information specified in Annex II.A to the EIA Directive, taking account of the results of any relevant environmental assessment reasonably available to it (paragraph 3(2)(a)); and
- (b) may also include a description of any feature of the project or measure envisaged to avoid or prevent what might otherwise be significant adverse effects of the project on the environment (paragraph 3(2)(b)).

4.1.2 The purpose of providing the information referred to in paragraph 4.1.1 is to enable the Welsh Ministers to screen a proposed HRO application, pursuant to paragraph 4 of Part 1 of Schedule 3 to the 1964 Act, in order to determine whether it relates to a project which requires an EIA further to Annex I or II of the EIA Directive.

4.1.3 Save in certain specified circumstances, paragraph 4B of Part 1 of Schedule 3 obliges the Welsh Ministers to issue a screening decision as soon as possible after, and in any event within a period of 90 days beginning with, the day on which the Welsh Ministers are notified of a proposed HRO application.

4.2 **Application to the FPT programme**

4.2.1 For the reasons set out in the following paragraphs, ABP considers FPT to be an Annex I project under the EIA Directive and, hence, the requirement to provide the information in Annex II.A further to paragraph 3(2)(a), which relates only to Annex II projects, is not engaged. However, as explained in paragraph 6 below, ABP is preparing a Scoping Report in respect of the FPT programme and the information in Annex II.A will be included in that Scoping Report in any event.

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- 4.2.2 As regard its categorisation as an Annex I project, the works and operations included in the FPT programme to which the HRO Application will relate include land reclamation, works to the existing jetty and seawalls, and the creation of new seawalls, quayside, slipways, pontoons, piers and wharves. The works will ensure that the Port Talbot Harbour will retain its existing capability to accommodate and handle ships and other floating structures in excess of 1,350 tonnes.
- 4.2.3 As such, ABP is of the opinion that the proposed works are of a type specified in Paragraph 8(b) of Annex I to the EIA Directive, being concerned with a "*[trading] ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes*". Consequently, a mandatory EIA will be required to be undertaken in respect of the Project works which are subject to the HRO application pursuant to Paragraph 4(2)(a) of Part 1 of Schedule 3 to the 1964 Act.
- 4.2.4 As such, the HRO Application should be considered an 'EIA application' within the meaning given to it in paragraph 1 of Part 1 of Schedule 3 of that Act.
- 4.2.5 The EIA to be undertaken in respect of the FPT programme will encompass all the terrestrial and marine works requiring environmental assessment in connection with the HRO Application, the planning permission to be sought from NPTBC and the marine licence to be sought from NRW (respectively). The likely significant environmental effects in respect of those works and applications will be reported in a single Environmental Statement for the FPT programme as a whole, albeit that document will make clear which of those likely significant effects are of relevance in the context of the HRO Application.
- 4.2.6 ABP appreciates that the written notice provided in paragraph 3 of this letter triggers a requirement for the Welsh Ministers to undertake a number of procedural steps as regard screening and scoping, certain of which cannot be discharged at this time.
- 4.2.7 However, in light of the request made in paragraph 5 of this letter for a deferral direction from the Welsh Ministers to NRW to be issued in respect of the EIA of the HRO application further to paragraph 20D of Part 1 of Schedule 3, it is requested that the Welsh Ministers please:
- (a) provide ABP with their written confirmation that FPT is an Annex I project (such confirmation to constitute a 'screening decision' made pursuant to paragraph 4B(1) of Part 1 of Schedule 3 to the 1964 Act and communicated to ABP pursuant to paragraph 6(2)(a) of Part 1 of Schedule 3 of the same Act); and
 - (b) publish a notice of its 'screening decision' pursuant to paragraph 6(2)(b) of Part 1 of Schedule 3 to the 1964 Act.
- 4.2.8 This request is made on the assumption that the Welsh Ministers will issue the deferral direction requested at paragraph 5 below further to paragraph 20D of Part 1 of Schedule 3 of the 1964 Act.

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5 Request for deferral of the EIA process in respect of the HRO Application to NRW

5.1 As noted above, a marine licence application will be submitted to NRW pursuant to the Marine and Coastal Access Act 2009 in order to authorise the FPT programme's physical works within the marine environment below the mean high water mark In Port Talbot Harbour (the "**Marine Licence Application**").

5.2 In the context of determining that Marine Licence Application, NRW will undertake its own assessment of the effects of the FPT programme on the environment pursuant to the Marine Works (Environmental Impact Assessment) Regulations 2007 ("**Marine Works EIA Regulations**"). That assessment will comprise the steps set out in paragraphs (a) to (d) of the definition of 'environmental impact assessment' in paragraph 1 of Part 1 of Schedule 3 to the 1964 Act.

5.3 Therefore, and assuming that the Welsh Ministers are minded to issue a screening decision pursuant to paragraphs 4B(1) and 6(2)(a) and (b) of Part 1 of Schedule 3 to the 1964 Act confirming, for the avoidance of doubt, that the intended application for a HRO relates to a project for which an EIA is required, ABP also requests that the Welsh Ministers issue a deferral direction (the "**Deferral Direction**") pursuant to paragraph 20D of Part 1 of Schedule 3, the effect of which will be to defer responsibility for undertaking the 'environmental impact assessment' (as defined in paragraph 1 of Part 1 of Schedule 3 to that Act) in respect of the HRO application to NRW (further to the Marine Works EIA Regulations).

5.4 ABP understands that in issuing the Deferral Direction to NRW, NRW will be required to complete its EIA as part of the process for issuing the marine licence before the Welsh Ministers can determine the HRO Application, having regard to the EIA completed by NRW.

5.5 For the avoidance of doubt, and in alignment with recent discussions between ABP and Welsh Government officials, ABP is continuing to prepare a Scoping Report for the FPT programme referred to below on the assumption that the Deferral Direction will be issued as outlined above.

6 Scope of the EIA

6.1 Where the Welsh Ministers determine that an intended HRO application relates to a project for which an EIA is required, paragraph 6(2)(c) of Part 1 of Schedule 3 to the 1964 Act requires them to issue a written opinion as to the scope and level of detail of information to be included in the environmental statement to be submitted for the purposes of the HRO application, such opinion having been informed by:

- (a) information provided by the proposed applicant as to the specific characteristics of the project (including its location and technical capacity) and its likely impact on the environment; and
- (b) the outputs of consultation undertaken by the Welsh Ministers with relevant environmental stakeholders.

6.2 Whilst paragraph 6(2)(c) of Part 1 of Schedule 3 to the 1964 Act would not apply if the Deferral Direction is issued by the Welsh Ministers, ABP anticipates that the information which would otherwise have been relied upon by the Welsh Ministers under paragraph 6(2)(c) will be of practical assistance to NRW for the purpose of the scoping exercise to be undertaken

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pursuant to Regulation 13 of the Marine Works (Environmental Impact Assessment) Regulations 2007.

6.3 ABP therefore intends to submit a detailed EIA Scoping Report (the "**Scoping Report**") to NRW which will include:

- (a) the information prescribed in paragraph 3(2) of Part 1 of Schedule 3 to the 1964 Act (including the information in Annex II.A of the EIA Directive which, for the reasons explained in Paragraph 4.2.1, is not included with this letter); and
- (b) such further information as is likely to be of assistance to NRW in discharging its duties pursuant to Regulation 13 of the 2007 Marine Works EIA Regulations.

6.4 In addition to meeting the legal requirements of a scoping report to be submitted to NRW in respect of the Marine Licence Application, the Scoping Report will also be submitted to NPTBC pursuant to, and in accordance the requirements, the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 in respect of terrestrial development for which planning permission is required pursuant to the Town and Country Planning Act 1990.

6.5 ABP intends that the information contained within the Scoping Report will be capable of being used to directly inform the decision as to the appropriate scope of the Scoping Opinion to be issued by NRW pursuant to Regulation 13 of the 2007 Marine Works EIA Regulations in respect of the HRO Application.

7 Request for Expedition in respect of the HRO Application

7.1 The purpose of the FPT programme is to provide a terrestrial and marine base to enable the deployment of floating offshore wind generation capacity in line with The Crown Estate's ambitions for floating offshore wind in the Celtic Sea.

7.2 The first phase of the FPT programme's facilities need to be available to meet developer requirements as part of The Crown Estate's leasing process and the programme for the deployment of floating offshore wind generation capacity in the Celtic Sea. The HRO, which will authorise works to be carried out within the marine environment in Port Talbot Harbour in order to bring forward those facilities, is therefore required by December 2026.

7.3 ABP understand the consequences of the Deferral Direction, meaning that the HRO can only be issued once the Marine Licence Application has been determined by NRW. The planning permission(s) required from NPTBC are programmed to be issued in mid-2026. ABP's intention is to submit the HRO Application, alongside applications for the other required consents, in Autumn 2025.

7.4 ABP requests, therefore, that consideration of the matters set out above, as well as the processing and determination of the intended HRO Application, are expedited by the Welsh Ministers and also by NRW at the direction of the Welsh Ministers.

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8 Further Information

- 8.1 Should you require any further information in relation to the matters set out above, please do not hesitate to contact Claire Stephenson, FPT Consent and Planning Lead, in the first instance.
- 8.2 A copy of this letter has been sent by email to the Planning and Casework Branch of the Welsh Government, Natural Resources Wales, PEDW and Neath Port Talbot Borough Council as detailed below.

We look forward to hearing from you.

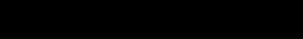
Yours sincerely,



James Good
Partner, Bryan Cave Leighton Paisner LLP

CC:

Alan Groves Planning Casework Branch, Planning Directorate, Welsh Government



Mari Williams – Natural Resources Wales

PEDW (PEDW.infrastructure@gov.wales)

Chris Davies – Neath Port Talbot Borough Council

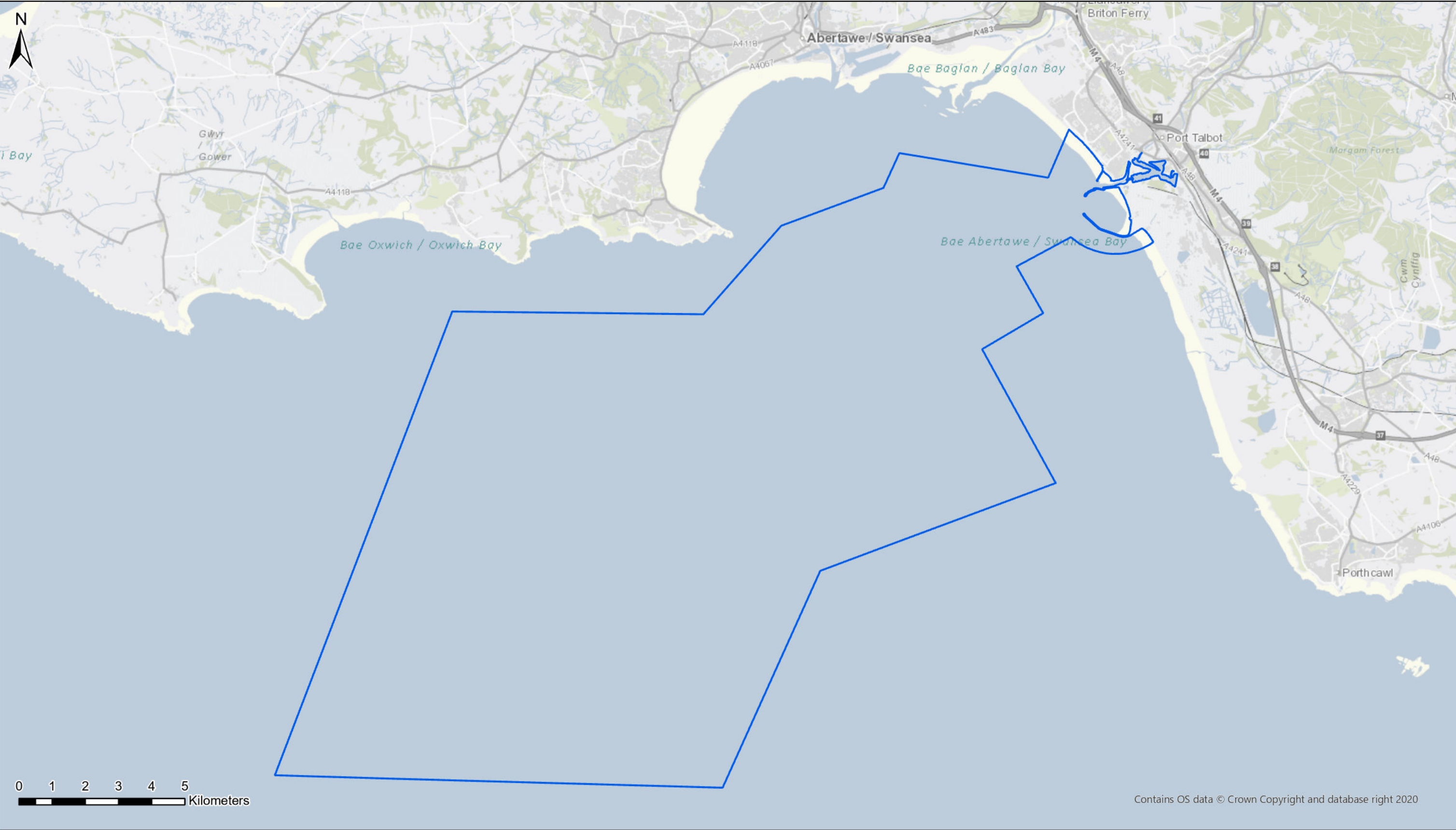


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Appendix 1

Statutory harbour limits for Port Talbot Harbour

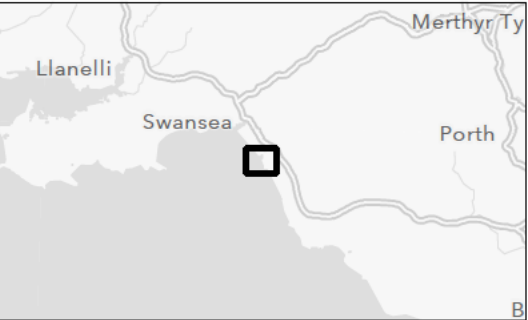


	Port Talbot Statutory Harbour Limits Plan	Scale (A3) 1:110,000	Date 22/10/2024	By lucy.diamond
© Crown copyright and database rights 2024 Ordnance Survey 0100031673		File Reference: FPT 1		Version 1

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Appendix 2

Location of the FPT programme



- EIA Scoping boundary
- Area excluded from EIA Scoping boundary

Coordinate system: British National Grid; Datum: OSGB 1936

Data Sources:
EIA scoping red line boundary: ABP/MDEX 2024. Modified Mott MacDonald 2024
Esri UK, Esri, TomTom, Garmin, Foursquare, FAO, MET/NASA, USGS, Maxar, Microsoft

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**Future Port Talbot
EIA Scoping Boundary**

Drawn MP	GIS Checked JH	Checked RM	Approved RR
Scale at A3 1:12,000	Status INF	Revision 01	Security STD