

SINGLE HARBOUR AUTHORITY OBAN

1.0 Executive Summary

Oban Harbour Development Group (OHDG), which comprises Caledonian Maritime Assets Ltd (CMAL), the Northern Lighthouse Board (NLB), CalMac Ferries Ltd and the Council, was set up to provide strategic direction for the development of Oban Harbour and ensure the safe and efficient operation of marine activity within Oban Bay.

A risk assessment on behalf of the OHDG identified a number of risks which are deemed unacceptable and the absence of a single harbour authority (SHA) is cited as having a fundamental impact on the operations and marine activities in Oban Bay.

A number of short term measures which improve safety, are in the process of being implemented.

This report also recommends the creation of a single harbour authority which would permit cohesive management of all activities especially marine traffic management.

There has been sustained Council involvement in the management of marine activity in Oban Bay and there has been a genuine desire by locally elected Councillors to bring the three key partners in the Bay together to create a single harbour authority (SHA). This would enhance the safety for mariners using the bay in light of the increasing use of Oban by different types of vessels in particular those in the aquaculture industry and cruise ships.

The difficulty in the past has been one of reluctance on the part of all parties to accept liability for other port users' activities. Through consultation a mechanism has been sought to share this liability by creating a hybrid SHA hybrid.

The fundamental argument in favour of a new SHA is that it will enable the new authority to exercise the powers of direction enshrined in the new harbour order. Without these powers the full enhancements in marine safety cannot be realised. A new SHA will address the strategic interests of the Council although it will be critical that the governance arrangements are managed to avoid the potential for stalemate on Board decisions.

The cost of implementing the short term measures is shared between CMAL, NLB and the Council. The Council's share of these costs over the next two years equates to £37,500. The cost of establishing and promoting a new Harbour Order is anticipated to be in the order of £200,000 with the Council's share being £50,000.

2.0 Recommendation

That the Committee i) support in principle the preferred option of a hybrid single harbour authority ii) agree that officers continue discussions on that basis, exploring the financial and governance implications and report back to the committee when more detail is available.

SINGLE HARBOUR AUTHORITY OBAN

3.0 INTRODUCTION

- 3.1 This report provides an overview of the issues arising from the proposed creation of a new single harbour authority (SHA) in Oban setting out the benefits and risks associated with the proposal.

4.0 RECOMMENDATIONS

4.1 That the Committee i) support in principle the preferred option of a hybrid single harbour authority ii) agree that officers continue discussions on that basis, exploring the financial and governance implications and report back to the committee when more detail is available.

5.0 BACKGROUND

- 5.1 Under the Harbours Act 1964 the Council in its role as a Statutory Harbour Authority for Oban has facilitated meetings over many years with a variety of key stakeholders. The role of Statutory Harbour Authority is one that affords powers of direction over vessels in respect of the North Pier and Oban Times Slip. It does not extend jurisdiction over the whole of Oban Bay and is a completely separate entity from the proposed Single Harbour Authority.

- 5.2 The current group is entitled the Oban Harbour Development Group (OHDG chaired by Lorna Spencer in her capacity as Director of Piers and Harbours for Caledonian Maritime Assets Ltd (CMAL). The OHDG is made up of representatives from the Northern Lighthouse Board (NLB), CalMac Ferries Ltd and the Council which is represented by both officers and Councillors.

The remit of the group is to provide strategic direction for the development of Oban Harbour and ensure the safe and efficient operation of marine activity within Oban Bay.

- 5.3 It is recognised that marine activity has continued to increase and with this the risk of an incident. The prospect of a new marina as proposed by the Oban Bay Marine group prompted the appointment of a marine

consultant to undertake a risk assessment on behalf of the OHDG. This identified a number of risks which are deemed unacceptable and the absence of a single harbour authority is cited as having a fundamental impact on the operations and marine activities in Oban Bay. The creation of such an authority would permit cohesive management of all activities especially marine traffic management

6.0 DEVELOPMENT OF OBAN BAY HARBOUR MANAGEMENT PLAN

- 6.1 Working in partnership with other members of the OHDG, CMAL appointed Fisher Associates to develop an overall Harbour management plan for Oban in two phases.
- 6.2 Phase one commenced in February 2014 and comprised a stakeholder consultation exercise, situation analysis, development of objectives for the Harbour Management plan and development and appraisal of short and long term measures.
- 6.3 The stakeholder engagement was most productive with positive comments received from the majority of attendees. The central theme that occurs throughout the report is that there is no control or overall responsibility for marine activity in Oban Bay which in turn impacts on the efficiency and safety of the harbour.
- 6.4 An independent risk assessment was undertaken by ABP Mer which identified all the hazards and potential mitigation measures. This report was subject to scrutiny by the stakeholders and considered as a fundamental part of the development process that led Fisher Associates to draft the final report. A copy of the report is attached at appendix A.
- 6.5 A number of short and long term measures were identified and prioritised and it was subsequently agreed by the OHDG to progress the implementation of the short term measures. The financial contribution from each key partner was defined on the basis of marine traffic. Seventy five percent of the vessels berth at the Railway Pier which is owned by CMAL, fifteen percent to the Oban North Pier and ten percent to the Northern Lighthouse Pier. The Council is consequently funding 15% of the cost for the short term measures and this is valued at £37,500 over twenty four months which will be allocated from the existing revenue budget for piers and harbours.
- 6.6 A Statutory Harbour Authority (SHA) covering the whole bay is a prerequisite for some marine safety control measures as highlighted in the report. The rationale for this is that an SHA gives the power of direction over the entire Oban Bay area. Such powers exist within the limit of the existing harbour areas but these only extend to approximately 50m of the berthing face of the North and Railway Pier, consequently to widen the powers of direction for the appointed harbour master would require a new SHA. To create a series of byelaws would also need a new statutory authority.

6.7 Fisher Associates compiled a series of eight options for a new harbour authority ranging from a single SHA Municipal port to a single SHA Company Limited by Guarantee.

Option	Benefits	Risks
1. Single SHA: Municipal Port	<ul style="list-style-type: none"> • Single SHA will optimise safety/increase efficiency and provide strategic direction. • ABC can bear some of the costs internally 	<ul style="list-style-type: none"> • May not be acceptable to all stakeholders • CMAL loses its statutory powers without compensation
2. Single SHA: State Port	<ul style="list-style-type: none"> • Single SHA will optimise safety/increase efficiency and provide strategic direction. • CMAL can bear some of the costs internally 	<ul style="list-style-type: none"> • May not be acceptable to all stakeholders • ABC loses its statutory powers without compensation
3. Two SHAs: A&BC extends limits	<ul style="list-style-type: none"> • Relatively easy to achieve – One order (HRO/HEO) relating to one party only. • Delivers an SHA for the wider Bay to improve/enforce safety • A&BC/CMAL maintain statutory powers. • A&BC can bear some of the costs internally 	<ul style="list-style-type: none"> • May not be acceptable to all stakeholders. • Does not create single SHA • Clear coordination and definition of roles and responsibilities between SHAs needed.
4. Two SHAs: CMAL extends limits	<ul style="list-style-type: none"> • Relatively easy to achieve – One Order (HRO/HEO) relating to one party only. • Delivers an SHA for the wider Bay to improve/enforce safety. • A&BC/CMAL maintain statutory powers. • CMAL can bear some of the costs internally 	<ul style="list-style-type: none"> • May not be acceptable to all stakeholders. • Does not create single SHA. • Clear coordination and definition of roles and responsibilities between SHAs needed
5. Single SHA: Trust	<ul style="list-style-type: none"> • Benefits of trust port 	<ul style="list-style-type: none"> • May not be

Port	<p>model – serves regional and local interests</p> <ul style="list-style-type: none"> • Single SHA will optimise safety/increase efficiency and provide strategic direction 	<p>acceptable to all stakeholders.</p> <ul style="list-style-type: none"> • Creation of new body will be costly • CMAL and A&BC lose their statutory powers without compensation • Structure might impact on ability to source funds (CMAL/A&BC)
6. Multi SHAs: Trust Port	<ul style="list-style-type: none"> • Benefits of trust port model – serves regional and local interests. • Delivers an SHA for the wider Bay to improve/enforce safety. • A&BC/CMAL maintain statutory powers 	<ul style="list-style-type: none"> • May not be acceptable to all stakeholders. • Creation of new body will be costly • Does not create a single SHA • Clear coordination and definition of roles and responsibilities between SHA's needed
7. Single SHA: Hybrid Port	<ul style="list-style-type: none"> • Addresses strategic interest of CMAL and A&BC • Current SHAs represented on Board • Single SHA will optimise safety/increase efficiency and provide strategic direction 	<ul style="list-style-type: none"> • May not be acceptable to all stakeholders • Creation of new body will be costly • Governance arrangements will be critical to avoid stalemate on Board decisions • Structure might impact on ability to source funds (CMAL/A&BC)
8. Single SHA: GLG Port	<ul style="list-style-type: none"> • Addresses strategic interest of CMAL and A&BC • Current SHAs represented on Board • Single SHA will optimise safety/increase efficiency and provide strategic direction 	<ul style="list-style-type: none"> • May not be acceptable to all stakeholders • Creation of new body will be costly • Governance arrangements will be critical to avoid stalemate on Board decisions • Structure might impact on ability to

	<ul style="list-style-type: none"> • Characteristics of trust port-serves regional and local interests 	source funds (CMAL/A&BC)
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The preferred option is to adopt a single SHA hybrid port because this allows the key stakeholders to retain a central role in the strategic development of the port whilst optimising the marine safety and efficiency of port operations. It will also enable both the Council and CMAL to continue to serve regional and local interests.

- 6.8 The principal benefits of this model are
- It addresses the strategic interests of both CMAL and the Council
 - Current harbour authorities are represented on Board
 - Single SHA will optimise safety/increase efficiency and provide strategic direction

The principal risks are:

- It may not be acceptable to all stakeholders
- Creation of a new body will be costly
- Governance arrangements will be critical to avoid stalemate on board decisions
- Structure might impact on ability to source funds

- 6.9 NLB has contributed to the establishment of the short term measures, however their Articles of Association preclude them from being party to a new Single Statutory Harbour Authority. On this basis the percentage share of the costs split between Caledonian Maritime Assets Ltd (CMAL) and Argyll and Bute Council (ABC) would be 75/25. The anticipated cost for setting up a new SHA is expected to be no more than £200,000 with the Council's share being £50,000. It should be noted however that the split in respect of responsibility and accountability has been suggested to reflect a 50/50 split but this has yet to be confirmed and will be pursued through governance arrangements. It is considered that the majority of the funding would be raised through conservancy dues. The two existing SHAs would retain ownership and control over their own facilities which is significant given the proposed future expansion of the Oban North Pier as part of the Tax Incremental Funding scheme. There is real scope for growing the cruise business to Oban and that of aquaculture and leisure. The Council should be an integral part of Oban as a thriving port.

CONCLUSION

The absence of a single harbour authority (SHA) is cited as having a fundamental impact on the operations and marine activities in Oban Bay. The creation of a SHA would enhance the safety for mariners using the bay, largely through the use of powers of direction over a larger area. A hybrid single harbour authority addresses strategic interests of both CMAL and the Council.

7.0 IMPLICATIONS

- 7.1 **Policy** If the Council pursues the creation of a new Single Harbour Authority it shall be required to approve the governance arrangements for the new Harbour Board.
- 7.2 **Financial** The creation of a new SHA will incur significant cost which will be largely recoverable through conservancy dues.
- 7.3 **Legal** There may be a requirement to contribute towards the drafting of a new Harbour Order.
- 7.4 **HR** The current harbour staff could be affected by the new governance arrangements. There is the potential TUPE of employees
- 7.5 **Equalities** No implications
- 7.6 **Risk** If the Council does not commit to being part of the new SHA it risks losing control of marine activities that generate income for the Council.
- 7.7 **Customer Service** No implications

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APPENDIX A