

OBAN BAY – SINGLE HARBOUR AUTHORITY

1.0 INTRODUCTION

- 1.1 The purpose of this report is to advise Members on the steps to bring to a conclusion an options appraisal process to determine a preferred option for the future management of Oban Harbour and the engagement that will be carried out with other partners who have an interest in Oban Bay. Various organisations have different responsibilities for areas of Oban Bay, some parts of the bay are not part of the specific jurisdiction of any organisation and this situation can lead to confusion for users, with no organisation in sole control of the bay itself.
- 1.2 Having one or more statutory harbour authorities controlling the entirety of the bay would remove ambiguity, improve the safety aspects, and would result in benefits to users of the bay.
- 1.3 Members should note that due to the geographic setting and number of connected ferry routes supported by Oban, Oban Bay is of strategic importance for the West of Scotland. It is important therefore that a satisfactory outcome for the safe management of Oban Bay is progressed at pace and with no further unnecessary delays.
- 1.4 The purpose of progressing a harbour authority area for the areas currently not managed should lead to a consolidation of the overall management of Oban Bay improving the overall effectiveness, efficiency and safety of the harbour. Appendix 1 explains the position in more detail. Regardless of preferences regarding shoreside Council infrastructure, there needs to be a focus on progressing a harbour authority at pace to ensure that all areas within Oban Bay can be adequately managed. It should be noted that the Oban Bay Management Group have put in place a significant number of initiatives which have gone some way to improving safety in recent years. However, it is only the establishment of a harbour authority that can ensure that all vessels entering and leaving Oban Bay can be fully managed which will bring about further safety enhancements.
- 1.5 There are five options for consideration which include:
1. Continue as we are This would provide a known base model to compare other options against.
 2. A Trust Port model to include the transfer of the current Harbour limits around North pier and the transfer or lease of some or all assets. (OCHDA

have expressed an interest in pursuing this option).

3. A Trust Port model excluding the transfer of the current Harbour limits around North Pier (wet port). (We understand that this is not OCHDA's preferred option and one that they may not wish to pursue at this time).
 4. CMAL as a unitary Harbour Authority.
 5. Argyll and Bute Council as a unitary Municipal Port.
- 1.6 On the basis that Option 2 would require the Council to make available its assets at North Pier to a third party, members are asked to consider whether in principle, they are prepared to consider an option for the future use of Council assets at Oban which would involve a disposal of these. If this is the case then Officers will continue to engage with the third party, including OCHDA, to enable them to fully develop their proposals so that they can be considered against the other options.

2.0 RECOMMENDATIONS

2.1 Members are asked to:

- a) Note the advice of the Council's Monitoring officer that at this stage we do not have all the necessary information to allow a preferred option to be selected.
- b) Agree whether, in principle, they are prepared to consider an option for the future use of Council assets at Oban which would involve a disposal of these.
- c) Agree that if the response to recommendation (b) above is in the affirmative, to note that officers will continue to engage with third parties, including OCHDA to enable them to fully develop their proposals.
- d) Agree that an options appraisal process be conducted to determine a preferred option for the future management of Oban Harbour and the engagement that will be carried out with other partners who have an interest in Oban Bay.
- e) Note that the results of the options appraisals are presented to the March 2022 meeting of the Harbour Board or if applicable an earlier special meeting for determination by members.

3.0 DETAIL

Background

- 3.1 There are three separate Harbour Orders in place for Oban: the North Pier, Railway Pier and South Pier. The approaches and waters through the bay are not covered by an order. The responsibility for these waters defaults to the Maritime and Coastguard Agency (MCA).
- 3.2 In 2018 CMAL were preparing to commence a formal process which would allow them to become the Harbour Authority for the waters currently not covered within Oban Bay. This had been supported by the Council's Harbour Board at the time

providing unfettered access could be provided to the Council's North Pier which was to be left nested within the bay. Following a public meeting where there was some concern expressed about CMAL becoming the new Harbour Authority, the Council through its Harbour Board asked CMAL to pause its process to allow a community group to develop an alternative proposal – the trust port option.

- 3.3 A community group was formed named Oban Community Harbour Development Association (OCHDA) which consists of a number of volunteers who have been seeking to progress a Trust Port model for Oban Bay.
- 3.4 Council officers provided information to the community group in 2019 to enable them to progress with financial and operational plans. There has been significant officer and Member time invested to support OCHDA to date and this report recommends that support should continue to allow OCHDA to develop viable proposals that can be considered against the other options. While at present the Council has no structured proposal from OCHDA which can be appraised, it can appraise the option of a Trust Port, in principle, with or without the transfer or lease of some or all relevant assets.
- 3.5 The relevant assets for the Council's operation of the harbour are: Harbour Masters office and wider harbour building, the berthing face of the North Pier, the transit berth marina and the Oban Times Slip. In the event that option 2 is the preferred option, any consequential transfer of assets would require to be negotiated
- 3.6 A Harbour Empowerment or Revision Order is a piece of local legislation governing a port. It is made as a Scottish Statutory Instrument under the 1964 Harbours Act by Scottish Ministers. An order can create and empower Harbour Authorities to undertake works projects or vary their existing harbour powers. Any new entity that might be agreed on to operate the harbour may, depending on the option agreed, require to consolidate all the existing Harbour powers including those which the Council holds around North Pier. Any amendment or consolidation of existing Harbour Orders will require a formal process to effectively extend the Harbour limits to include the waters currently not covered. The new body would then be able to charge conservancy fees for all vessels entering and leaving the bay. The conservancy fee being used to discharge the duties of the Harbour Authority. Any solution would require to demonstrate overall benefits to users, financial and technical viability, organisational competence and future sustainability.
- 3.7 It is important to understand that larger vessels which in the main are ferries will have "right of way" over other harbour traffic no matter which body has authority over the bay.

Council's Assets at the North Pier

- 3.8 Argyll and Bute Council have responsibility for the following assets in the vicinity of the North Pier:
 - Harbour Masters offices (which incorporates meeting rooms, pontoon office, showering and toilet facilities, retail space etc)
 - North pier, associated berthing face, access roads, slipways etc.

- Oban Times Slipway
- North Pier Car Park
- North Pier pontoons and Breakwater
- North Pier toilets and showers
- Port Beag Slipway and associated ground

Financial Position

- 3.9 Over the last three years the financial outturn for North Pier has generally shown a marginal surplus. It should be noted that the pontoons and the harbour building are recently completed projects and as such have not had opportunity to reach their full potential. That potential has been restricted due to the pandemic and whilst it is difficult to put accurate estimates on the financial forecast for these assets, it is considered that they have significantly underperformed their potential and future years are anticipated to be significantly more profitable once the facilities have been fully established. North Pier, as with the other Council's marine assets, is part of the Council's 10 year rolling Asset Management Plan which would be the mechanism to fund any asset improvement or sustainability works whilst these assets are the responsibility of the Council for maintenance and/or improvement.

Economic Development and Tourism Opportunities from North Pier

- 3.10 Members will be aware that a key investment for the town of Oban has been the delivery of the North Pier pontoons and associated harbour office that were primarily funded by council capital funding, HIE funding and through the Scottish Government Regional capital grant fund. The pontoons have been highly popular when they have been allowed to operate as a berthing facility attracting yachts and larger craft from the UK and beyond. The pontoons have also facilitated the expansion of mini cruise operators that can now offer first class experiences using the pontoons and associated facilities. A third function of the pontoons is to facilitate the landing of larger cruise ship passengers via tenders which has real growth potential. All these activities create significant economic benefits for the town centre which was always a function of these new facilities. It is also worth noting that the pontoons have a dedicated website monitored by the council and it is anticipated their popularity as a destination will continue to grow. In addition to the tourist potential North Pier also plays an important role in the wider economy of Oban and indeed Lorn. In particular, as a berth for the Lismore ferry and serving numerous aquaculture service boats. Any interruption therefore in the operation of the North Pier and pontoons will undoubtedly have a significant negative impact on the wider economy of Oban and Lorn.

Available Options and Next Steps for the Council

- 3.11 There are currently 5 options in respect of Oban Bay and at this stage the Council have not come to a formal view on what their preferred option is. To facilitate the overall option appraisal process officers will continue to engage with third parties, including OCHDA, to enable them to fully develop their proposals.
- 3.12 The advice from the Council's Monitoring Officer is that the Council are not in a position to take a final decision at this stage because it is not possible to fully

compare all the options on a like for like basis or to meet the legal obligations on the Council to secure Best Value in the transfer of any assets with a monetary value.

- 3.13 Any Harbour Order process is determined by Transport Scotland/Scottish Ministers.
- 3.14 The five options are set out in the table below along with some advantages and disadvantages of each option to assist members in considering recommendation 2.1 (b). Officers will bring forward a full options appraisal to the members at the next Harbour Board meeting, if not earlier.

Advantages and Disadvantages for the 5 options

Option No.	Option Description	Advantages	Disadvantages
1	Continue with the status quo. (Although this is an option, it is not recommended and should be discounted.)	<ul style="list-style-type: none"> No initial cost 	<ul style="list-style-type: none"> Not sustainable – option should be formally discounted
2	Facilitate OCHDA progressing a Trust Port to include the transfer of the current Harbour limits around North pier and the transfer or lease of some or all the following assets: North Pier berthing face Transit Berth marina Oban Times Slip Harbour Masters Office (this may be further sub-divided) Car Park	<ul style="list-style-type: none"> A group of volunteers have formed OCHDA and are seeking to progress a trust port A trust port would meet the overall objectives sought by the Oban Bay Management Group in that the water currently uncontrolled would be controlled 	<ul style="list-style-type: none"> Loss of income to the Council in terms of existing assets. No known experience within the OCHDA group in operating a Harbour Authority at either an operational or a strategic level Unknown financial viability of any new trust port being established, the costs associated with establishing a trust port would be significant not only with additional staff but also putting in place various systems and making provision for: conservancy, bathymetric surveys, safety management system, oil spill response plan together with Tier 2 responders etc. New trust port would need to be established including recruitment of a CEO and additional staff together with the TUPE transfer of Council staff

			<ul style="list-style-type: none">• Would result in detriment to the management arrangements to the wider Council's harbour team which currently utilise skills across a number of harbour master locations to the wider Council benefit• Reduction in available resource to cover the wider marine estate in the OLI area and wider council area• Loss of control of Council assets at the North Pier (the transit berth marina and new harbour building are in their infancy and with the disruptions brought about by the pandemic have not been fully proven). The potential income to the Council will be difficult to accurately forecast given that the facility has not had time to be fully established.• Loss of control in terms of the type of vessels and the fees and charges applied to vessels. This may affect the wider economic benefit of the marina• OCHDA have identified a significant body of water to be covered by the trust port, officers are of the view that for this be managed competently, there would need to be some form of vessel traffic system in place
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			<ul style="list-style-type: none"> • Establishing a new arrangement will take longer than the municipal options making this less effective and efficient • Conservancy fee would likely apply to vessels visiting the North Pier
3	OCHDA progress a Trust Port not including the transfer of the current Harbour limits around North Pier (wet port).	<ul style="list-style-type: none"> • Council would keep control of the harbour limits around the North Pier and all its shore side assets • A trust port would meet the overall objectives sought by the Oban Bay Management Group in that the water currently uncontrolled would be controlled 	<ul style="list-style-type: none"> • No known experience within the OCHDA group in operating a Harbour Authority at either an operational or a strategic level • Unknown financial viability of any new trust port being established, the costs associated with establishing a trust port would be significant not only with additional staff but also putting in place various systems and making provision for: conservancy, bathymetric surveys, safety management system, oil spill response plan together with Tier 2 responders etc. • New trust port would need to be established including recruitment of a CEO and additional staff OCHDA have identified a significant body of water to be covered by the trust port, officers are of the view that for this be managed competently, there would need to be some form of vessel traffic system in place

			<ul style="list-style-type: none"> • Establishing a new arrangement will take longer than the municipal options making this less effective and efficient • Conservancy fee would likely apply to vessels visiting the North Pier
4	CMAL to progress becoming the Harbour Authority.	<ul style="list-style-type: none"> • CMAL are directly responsible to Scottish Ministers and are an established organisation who have skills and expertise in managing harbours • Whilst any funding request for the harbour authority would need to demonstrate best value, the established budgets and direct links into Scottish Minister would help to ensure that the harbour authority under CMAL's management would be financially secure ensuring that the harbour could be operated in a safe manner for all users • Well established working relationships between CMAL, Calmac, Northern Lighthouse Board and Council. • Council retains control of shore side assets associated with the North Pier together with the harbour limits currently managed by the Council. • CMAL already have the management structure, safety 	<ul style="list-style-type: none"> • The previous public perception around CMAL would need to be resolved to ensure that CMAL, if they were to go through as harbour authority, could do so with the backing of the majority of stakeholders (clearly this would be something for CMAL and Transport Scotland/Scottish Government to resolve) • Council would need to ensure that it continued to enjoy unfettered access to the North Pier facilities, accepting that navigational safety and direction from the new harbour authority would determine vessel movements • This would result in traffic visiting the North Pier assets having to travel through two harbour authority areas. However, this should not be an issue as there are other examples in the UK where this successfully takes place. Harbour Board Members will recall the

		<p>management system, Port Marine Safety Code, Oil Spill Response plans etc in place together with a vast experience of maritime and marine engineering management and project delivery</p> <ul style="list-style-type: none"> • CMAL has in place a significant support team including HR, Payroll, Legal, Finance etc. • Speed of implementation could be relatively quick with informal arrangements being put in place prior to a 'municipal port' being formally established • A 'municipal port' would meet the overall objectives sought by the Oban Bay Management Group in that the water currently uncontrolled would be controlled • Efficient and effective implementation due to established processes, governance and other established harbour management 	<p>Development Session with the Designated Person in May this year where examples of the Solent and Falmouth Harbour were both discussed where multiple harbour authorities work side by side with many vessels having to pass through more than one harbour authority area. Furthermore in the Solent, there are multiple vessel traffic systems that work along side each other. Whilst this could be seen as a disadvantage, officers are of the view that it would not cause any practical issues.</p> <ul style="list-style-type: none"> • Conservancy fee would likely apply to vessels visiting the North Pier
5	Argyll and Bute Council to progress the formation of a Municipal Port.	<ul style="list-style-type: none"> • Well established working relationships between Council, Calmac, Northern Lighthouse Board and CMAL. • Council already have the management structure, safety management system, Port Marine 	<ul style="list-style-type: none"> • Operating ports and harbours is not the sole business focus of the Council, however, the Council has a significant ports and harbours team and a design team who have specialisms in marine engineering works

		<p>Safety Code, Oil Spill Response plans etc in place together with a vast experience of maritime and marine engineering management and project delivery</p> <ul style="list-style-type: none"> • Council has in place a significant support team including HR, Payroll, Legal, Finance etc. • Council has financial backing required to progress any Harbour Revision Order etc and other formal processes required to establish a municipal port • Speed of implementation could be relatively quick with informal arrangements being put in place prior to a municipal port being formally established • A municipal port would meet the overall objectives sought by the Oban Bay Management Group in that the water currently uncontrolled would be controlled • Efficient and effective implementation due to established processes, governance and other established harbour management 	<ul style="list-style-type: none"> • Council would need to develop a business plan demonstrating how it would take on the additional responsibilities associated with the wider harbour limits to ensure that the harbour could be operated safely and in a financially viable model • Conservancy fee would likely apply to vessels visiting the North Pier
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4.0 CONCLUSION

- 4.1 The purpose of this report is to advise Members on the steps to bring to a conclusion an options appraisal process to determine a preferred option for the future management of Oban Harbour and the engagement that will be carried out with other partners who have an interest in Oban Bay.
- 4.2 On the basis that Option 2 would require the Council to make available its assets at North Pier to a third party, members are asked to consider whether in principle, they are prepared to consider an option for the future use of Council assets at Oban which would involve a disposal of these. If this is the case then Officers will continue to engage with the third party, including OCHDA, to enable them to fully develop their proposals so that they can be considered against the other options.
- 4.3 Various organisations have different responsibilities for areas of Oban Bay, some parts of the bay are not part of the specific jurisdiction of any organisation and this situation can lead to confusion for users, with no organisation in sole control of the bay itself.

5.0 IMPLICATIONS

5.1 Policy – None

5.2 Financial – The financial impacts have not been assessed at this time for each of the options and cannot be fully assessed until the Business Case has been produced by OCHDA.

5.3 Legal – Any agreement with OCHDA must ensure that the Council's interests and areas of responsibility are protected.

5.4 HR – None

5.5 Fairer Scotland Duty

5.5.1 Equalities / Protected - None directly arising from this report
Characteristics

5.5.2 Socio-economic Duty - None directly arising from this report

5.5.3 Islands - See risk below

5.6 Risk – Advice from the OBMG is that 'to do nothing', given concerns over safety at Oban Bay, is not an option worthy of consideration.

5.7 Customer Service – None

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August 2021

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